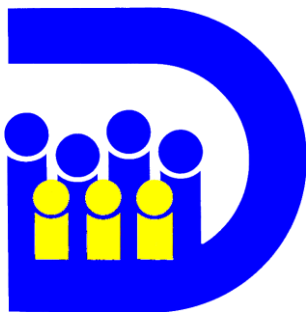


DELACARE PROCEDURES MANUAL 2017

OFFICE OF CHILD CARE LICENSING



State of Delaware

*The Department of Services for Children,
Youth, and Their Families*

FOREWORD

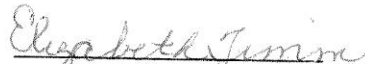
The Department of Services for Children, Youth and Their Families, Division of Family Services, Office of Child Care Licensing (known hereafter as OCCL) is responsible for the licensure and regulation of family child care homes, large family child care homes, early care and education centers, school-age centers, residential treatment facilities, transitional living programs, day treatment programs, and child placing agencies. To accomplish the administrative aspect of this task, this manual was developed for use by OCCL employees and Department administrators to provide a consistent protocol for conducting various licensing duties, functions, and responsibilities. However, this manual does not cover every possible case or situation encountered by OCCL employees, nor is it intended to take the place of sound professional judgment or reasoning. Upon request, OCCL is required to make this manual available to those wishing to view it.

NOTICE OF RESCISSION AND ADOPTION

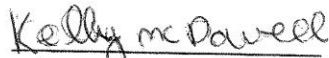
The Division of Family Services, Department of Services for Children, Youth and Their Families adopts the following procedures for use by OCCL employees and Department administrators in conducting the licensing responsibilities authorized pursuant to 31 Del C., Chapter 3, 341-44. All previous procedures are invalid. These procedures will take effect October 2, 2017.


Carla Benson-Green
DFS, Division Director


10/2/17
Date


Elizabeth (Betty Gail) Timm
OCCL, Administrator

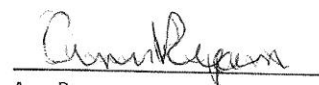
10/2/17
Date


Kelly McDowell
OCCL, Resource and Development Administrator

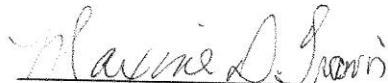
10/2/17
Date


Beth Kramer
OCCL, Supervisor


10/2/17
Date


Ann Ryan
OCCL, Supervisor

10/2/17
Date


Maxine Travis
OCCL, Supervisor

10/2/17
Date


Debra Helman
OCCL, Supervisor

10/2/17
Date

Foreword

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DEFINITION OF TERMS

1. "Administrator" means the individual responsible for the supervision and administration of OCCL.
2. "Administrative hearing" means the hearing provided to a licensee or applicant when the licensee or applicant requests an appeal of OCCL's decision to place the facility on the enforcement action of warning of probation or probation, to suspend a license, to revoke a license, or to deny a license application by presenting evidence to contest the action. A licensee or applicant, at their expense, may appeal hearing decisions of license revocations and license application denials to the Delaware Superior Court for final review,
3. "Adult" means a person who has reached the age of 18.
4. "Agreement of understanding" (AOU) means a formal written document that is used as part of a corrective action plan or when a formal agreement is deemed necessary between the licensee or applicant and OCCL. It clearly explains and stipulates what actions a licensee or applicant must take in order to achieve compliance, maintain licensure, or both.
5. "Allegation of Unlicensed Care" means an accusation that a facility or individual, subject to licensure by the Delaware Code, is providing child care services without a license. Allegations are entered in FACTS as a standards complaint.
6. "Annual training" means the successful participation in an organized professional development activity that is approved or accepted by OCCL in order to develop or enhance child care competencies of the licensee or staff in a licensed facility.
7. "Applicant" means an individual, president of the corporation, agency, firm, corporation, managing member of the Limited Liability Corporation (LLC), association, government entity, or partnership that has applied for or is in the process of applying for an initial license or the renewal of an annual license.
8. "Background check" means a State of Delaware and federal (national) report of a person's entire criminal history, a search of the Department's child protection registry check, and other checks required by State or federal law.
9. "Business day" means any weekday Monday through Friday. It does not include any weekend day (Saturday and Sunday) or any State of Delaware legal holiday that falls on a weekday.
10. "Cabinet Secretary" means the cabinet secretary of the Department of Services for Children, Youth, and Their Families.
11. "Capacity" means the maximum number of children authorized to be in the care and supervision of a facility at any one time.
12. "Cease Operation Order" means a notice issued by OCCL directing child care services to end by a specified date. The individual or facility must not provide child care services during the term of a "Cease Operation Order." These orders serve the same purpose for unlicensed facilities as "Suspension Orders" do for licensed facilities.
13. "Child" means any person who has not reached the age of 18.
14. "Child abuse" means a person causes or inflicts sexual abuse on a child; or a person that has care, custody, or control of a child causes or inflicts physical injury through unjustified force, emotional abuse, torture, exploitation, maltreatment, or mistreatment as defined in 10 Delaware Code, Section 901.

15. "Child Advocacy Center" means the facility that allows law enforcement, child protection professionals, prosecutors, and mental health and medical communities to work together when intervening in child abuse cases by interviewing children with trained forensic interviewers in a manner that is legally sound, following nationally accepted "best practices," and minimizing duplicative and unnecessary interviews.
16. "Child care," as defined in 31 Delaware Code, Section 342, means and includes:
- a. Any person, association, agency or organization which:
 - 1. Has in custody or control one child or more under the age of 18 years, unattended by parent or guardian, for the purpose of providing such child or children with care, education, protection, supervision or guidance;
 - 2. Is compensated for their services;
 - 3. Advertises or holds himself, herself or itself out as conducting such child care;
 - b. The provision of, or arranging for, the placement of children in foster care homes, adoptive homes or supervised independent living arrangements; and
 - c. Family child care homes, large family child care homes, day care centers, child placing agencies, residential child care facilities and day treatment programs as currently defined by regulation. Day-care centers operating part or full day are subject to licensure. Homes in which children have been placed by any child placing agency properly licensed to place children in this State must not be regarded as 'child care'.
17. "Child Neglect" means the neglect of a child, as defined in 10 Delaware Code, Section 901. Neglect means that a person who is responsible for the care, custody, and/or control of the child and has the ability and financial means to provide for the care of the child:
- a. Fails to provide necessary care with regard to: food, clothing, shelter, education, health, medical or other care necessary for the child's emotional, physical, or mental health, or safety and general well-being; or
 - b. Chronically and severely abuses alcohol or a controlled substance, is not active in treatment for such abuse, and the abuse threatens the child's ability to receive care necessary for that child's safety and general well-being; or
 - c. Fails to provide necessary supervision appropriate for a child when the child is unable to care for that child's own basic needs or safety, after considering such factors as the child's age, mental ability, physical condition, the length of the caretaker's absence, and the context of the child's environment.
- In making a finding of neglect under this section, consideration may be given to dependency, neglect, or abuse history of any party.
18. "Child placing agency" means an organization established for the purpose of providing or arranging placement for a child in the home of an approved foster or adoptive parent.
19. "Conference" means a meeting between OCCL and a licensee to discuss non-compliance of a serious or repeated nature. If a licensee does not correct this non-compliance as stated in a corrective action plan or agreement of understanding, this may result in an enforcement action. At a conference, a licensee may also dispute non-compliance with regulations cited by a specialist during a compliance review, complaint, or other visit, or discuss the denial of a variance request.
20. "Corrective action plan" means a plan developed with the licensee by OCCL, which lists any non-compliance a licensee must correct, how it must be corrected, and the date OCCL requires the corrections to be completed.
21. "Day treatment program" means any program that provides highly structured, intensive, and non-residential services to children who have emotional, psychological, developmental, physical or behavioral dysfunctions, impairments, or chemical dependencies. Day treatment programs provide care, protection, supervision, and education, for less than 24 hours per day, for children who cannot be cared for in a less restrictive environment.

Day treatment programs provide a blend of both treatment intervention and individualized techniques on a time-limited basis. The primary treatment goal of a day treatment program is to prepare children for a less intensive level of service.

22. "Day" when the word day or days appears without the word business, it means calendar day or days.
23. "DELACARE" means the general title given to regulations for early care and education and school-age centers, family and large family child care homes, child placing agencies, residential child care facilities, and day treatment programs promulgated by the Department.
24. "Department" means the Department of Services for Children, Youth and Their Families.
25. "Denial" means the process of refusing to grant a license after receipt of an application, following the completion of a case review and administrative hearing, if applicable. This constitutes refusal of official permission to operate.
26. "Direct voice contact" means speaking directly with a specialist, supervisor, or administrator via telephone or face-to-face contact. When direct voice contact is required, leaving a voice mail message is not acceptable.
27. "Division" means the Division of Family Services within the Department.
28. "Division Director" means the Director of the Division of Family Services within the Department.
29. "Early care and education" means the care, education, protection, supervision, or guidance of children from birth through school age.
30. "Early care and education and school-age center" means a facility that provides care, education, protection, supervision, or guidance for 13 or more children, including children related to the operator. Service is provided on a regular basis for periods of less than 24 hours per day, when children are unattended by parent or guardian, and the center is compensated. This definition shall include but is not limited to full- and part-time day care, child care, early care and education, early childhood education, preschool, nursery school, extended child care, independently operated kindergartens, before or after school care, school-age care, school's out care, school vacation or holiday care, and summer child care.
31. "Enforcement action" means an action or group of actions initiated by OCCL regarding an applicant or licensee for failure to comply with *DELACARE*, a corrective action plan, or an agreement of understanding. The enforcement actions available to OCCL are warning of probation, probation, suspension, revocation, or denial.
32. "Exempt from licensure" means facilities serving children that operate for less than 24 hours per day do not require a license when meeting one or more of the following criteria:
 - A. Camps issued permits by the Division of Public Health;
 - B. An institution, agency, association, or organization under State of Delaware ownership and control;
 - C. Classes for religious instruction conducted by religious institutions during the summer months for periods not to exceed four weeks;
 - D. Programs established in connection with a business, recreation center, or religious institution in which children are provided care for brief periods of time, while parent or guardian is on the premises, are readily accessible at all times on an on-call basis, and are able to resume control of the child immediately;
 - E. Programs that offer activities for children over the age of six who attend at their own discretion on an 'open door' basis, where there is no compensation, and where there is no agreement, written or

implied, between the program and the parent or guardian for the program to assume responsibility for the care of the child;

- F. Programs that offer school-age care on an ad hoc, sporadic, and isolated basis in order to meet an emergency or special need or to provide specific skill instruction; or
- G. A public or private school that provides regular and thorough instruction through at least the sixth grade in the subjects prescribed for the schools of the State, in a manner suitable to the children of the same age and stage of advancement, and that reports to the State Board of Education pursuant to 14 Delaware Code, Section 2704. This exclusion shall include all programs operated by these schools, except as stated above, and shall also include preschool education programs for people with disabilities as defined by 14 Delaware Code, Section 3101(4).

- 33. "Facility" for the purposes of this procedures manual, means a family or large family child care home, center, residential child care facility, day treatment program, or child placing agency.
- 34. "Family child care home" (FCCH) means a private home in which a licensee resides and provides a licensed child care service.
- 35. "Family child care license" means a formal printed document issued by OCCL permitting a person or entity to operate a FCCH after demonstrating compliance with *DELACARE: Regulations for Family and Large Family Child Care Homes* and applicable codes and laws. The license remains the property of the Department.
- 36. "Financial arrangements" means the types of payment and funding sources accepted by a licensed facility including, but not limited to, Child and Adult Care Food Program (CACFP), employer-sponsored, non-profit, for-profit, private, publicly operated, and Purchase of Care (POC).
- 37. "Governing body" means the person or group of people with the ultimate responsibility for and authority over the operation of a facility, for example, a board of directors.
- 38. "Institutional Abuse Unit" (IA) means a section within the division that investigates allegations of child abuse or neglect that occurred to a child while in out-of-home care as defined in 10 Delaware Code, Section 901.
- 39. "Institutional abuse" means a child is the subject of abuse or neglect while in out-of-home care as defined in 10 Delaware Code, Section 901.
- 40. "Large family child care home" (LFCCH) means a private home or non-residential property where a licensee offers licensed child care.
- 41. "Large family child care license" means a formal written document issued by OCCL permitting a person or entity to operate a LFCCH after demonstrating compliance with *DELACARE: Regulations for Family and Large Family Child Care Homes* and applicable codes and laws. The license remains the property of the Department.
- 42. "Level I family child care home" means a regulated service applied to a FCCH, which limits the number of children in care at any given time according to *DELACARE*.
- 43. "Level II family child care home" means a regulated service applied to a FCCH, which limits the number of children in care at any given time according to *DELACARE*.
- 44. "License" means OCCL granted authority through a printed certification to a licensee at a specific location to operate a licensed child care facility under applicable State law.

45. "Licensee" means the owner or entity, such as a company, corporation, business, agency, association, or organization, with legal or fiscal responsibility for and authority over a licensed child care facility.
46. "License extension" means when an annual license is extended by an additional month or more when the licensee is not at fault. This may occur when a specialist or fire marshal was unable to complete an inspection before license expiration.
47. "Licensure" means OCCL issued a license when the applicant demonstrated compliance with *DELACARE*, and other applicable codes, and laws.
48. "Non-Compliance" means any failure to comply with applicable *DELACARE Regulations*.
49. "Office of Child Care Licensing" (OCCL) means the agency within the department authorized under 31 Delaware Code, Sections 341-345 to promulgate and enforce regulations for child care, to license child care facilities, and to develop and implement policies and procedures. OCCL includes the Criminal History Unit, which conducts background checks and child abuse registry checks for people working, volunteering, or living in child care facilities, including foster and adoptive parents and adult household members. The unit assesses the information; makes a determination of eligibility for employment or involvement in a facility based upon a person's criminal background; and considers the types and dates of offenses, record since the offenses, and the responsibilities of the position that the individual has obtained or is seeking to obtain.
50. "Over-capacity" means exceeding the maximum number of children authorized under *DELACARE* or any federal, State, or local entity with authority to set the capacity limit of a facility at any one time.
51. "Parent or Guardian" means a birth or adoptive parent, legal guardian, or other person or entity having responsibility for, or legal custody of, a child.
52. "Plan review" means the document submitted by an applicant or licensee to OCCL requesting the opening of a new center, residential child care facility, or day treatment program. A plan review is also used by a licensee for an expansion or renovation of a licensed building's indoor or outdoor space to ensure compliance with *DELACARE*. The plan must be approved by a supervisor.
53. "Purchase of Care" (POC) is a subsidy that helps parents or guardians pay for child care in Delaware.
54. "Private home" means a nonpublic residence such as a house, duplex, townhouse, apartment, or mobile home where the licensee resides and has control over the furnishings and use of space. An individual unit in public housing and university housing complexes may be considered a private home.
55. "Provisional license" means a license issued for a maximum period of three months when a licensee is temporarily unable to comply with *DELACARE*. There can be no serious risk to the health, safety, or well-being of children. During this time, a licensee operates under a corrective action plan or an agreement of understanding. An extension beyond this time requires administrator approval.
56. "Regulated Services" means the types of care or conditions provided by the licensee and approved by OCCL that are listed on the license for a particular facility including: adoption, adventure activity program, day treatment program, drop-in care, foster care, Level I FCCH, Level II FCCH, night care, parenting and adolescent facility, residential care, restrictive procedures, school-age care, secure care, shelter care, sick care, and summer camp.
57. "Relative" means a person having any of the following relationships by blood, marriage, or adoption; parent, grandparent, great-grandparent, brother, sister, aunt, uncle, stepparent, stepbrother, and stepsister. A cousin, for the purpose of this definition, shall not be considered a relative.

58. "Residential child care" (RCC) means any facility that provides 24-hour care, protection, supervision, and for the education of children who have behavior dysfunctions, developmental, emotional, mental, or physical impairments, or chemical dependencies.
59. "Revocation" means the process of rescinding a license during the license's effective dates thereby withdrawing official permission to operate. If the cabinet secretary decides to revoke the license, the licensee shall cease operation within 30 days of receipt of the decision.
60. "School-age care" means care, education, protection, supervision, or guidance for school-age children in any of the following circumstances: before and after school; before school, after school, during school holidays; and/or during summer months.
61. "School-age centers" (SAC) provide care, education, protection, supervision, or guidance exclusively for 13 or more school-age children, including children related to the operator. Service is provided on a regular basis for periods of less than 24 hours per day, when children are unattended by parent or guardian, and the center is compensated.
62. "School-age child" means a child who is attending kindergarten or higher grade in a public or private school outside of the home. A child shall be considered school age for staff-to-child ratio purposes beginning the first day attending kindergarten or first grade, whichever comes first.
63. "Serious non-compliance" means any non-compliance that presents a dangerous or potentially dangerous threat to the health, safety, or well-being of children in care at a facility. This includes repeatedly cited non-compliance that the licensee is unable or unwilling to correct permanently.
64. "Special conditions" means a circumstance listed on a license that indicates either the provider is a foster parent as well as a family or large family provider, and/or the presence of high-nitrate water.
65. "Specialist" means an employee of the Department of Services for Children, Youth and Their Families, Division of Family Services, Office of Child Care Licensing who is responsible for performing regulatory activities including complaint investigations, monitoring enforcement actions, ensuring compliance with *DELACARE*, and providing technical assistance to licensees.
66. "Standards complaint" means the oral or written accusation that a licensee is not complying with *DELACARE* or applicable laws. Allegations are entered in FACTS as a standards complaint and may be anonymous.
67. "Standards complaint investigation" means the process followed by OCCL to investigate an accusation that a licensee does not comply with *DELACARE* or applicable laws. The licensee is notified of the complaint generally at the time of an unannounced visit regarding the particular complaint and a written report is created and given to the licensee stating the results of the investigation.
68. "Supervisor" means an employee of the Department of Services for Children, Youth and Their Families, Division of Family Services, Office of Child Care Licensing who is responsible for supervising specialists on a regional basis, reviewing complaints, monitoring regulatory functions, and ensuring *DELACARE* and OCCL's policies and procedures are followed.
69. "Suspension Order" means a notice issued by OCCL to the licensee directing child care services to end on a specified date. The licensee shall not provide child care services during the term of a "Suspension Order."
70. "Thorough investigation" as defined by 31 Delaware Code, Section 344, states:
(b) "In the case of a person conducting child care, no license shall be issued to such person until OCCL has made a thorough investigation and has determined in accordance with reasonable standards:

- (1) The good character and intention of the applicant or applicants;
- (2) That the individual home or facility meets the physical, social, moral, mental and educational needs of the average child;
- (3) Whether the regulations of OCCL are properly met; and
- (4) That the required criminal background checks are completed and approved.

(c) In the case of an institution, agency, association or organization, no license shall be issued until OCCL has made a thorough investigation and has made a favorable determination of:

- (1) The good character and intention of the applicant or applicants;
- (2) The present and prospective need of the service rendered;
- (3) The employment of capable, trained and experienced workers;
- (4) Sufficient financial backing to ensure effective work;
- (5) The probability of the service being continued for a reasonable period of time;
- (6) Whether the methods used and disposition made of the children served will be to their best interests and that of society;
- (7) Whether the regulations of OCCL are properly met; and
- (8) That the required criminal background checks are completed and approved.”

71. “Variance” means OCCL’s approval for a licensee to meet the intent of a specific licensing regulation in a way that is different from the way the regulation specifies. OCCL will only give this approval when the change will not endanger the health, safety, or well-being of children in care.

1. Licensing Purpose

1.1 Legal Base

The legal base for the Office of Child Care Licensing (OCCL) is found in 31 Delaware Code, Sections 341-345 and 29 Delaware Code, Section 9003 (7).

1.2 Purpose

OCCL’s purpose is to protect the health, safety, well-being, and positive development of children who receive out-of-home child care services in Delaware. During the facility’s hours of operation, the legislature has given the Department and OCCL the authority to enter a licensed facility; inspect the licensed site; and access information, files, and documents. This includes organizations providing care of children whether dependent or otherwise, in lieu of the care and supervision ordinarily provided by parents in their own homes for periods of less than 24 hours a day. This authority additionally allows the Department to prescribe “reasonable standards” and determine whether an applicant meets the regulations set for a particular type of child care. A person, entity, etc. is prohibited by law to operate a child care facility without permission from OCCL.

2. Exemptions from Licensure

2.1 Procedures for Requesting Exemption

When the services offered by a facility fall under the exempt from licensure options (see definition), the owner, director, or governing body of the facility completes and submits the “Application for License Exemption” located on OCCL’s website. This form identifies the reason the facility is claiming to be exempt and requires documentation to support the exemption request. In addition, this form will include the following information: description of the program, dates of operation, hours of operation, ages of children served, program activities, site location, mailing address, fees charged, and if located in a public or private school, the name of the entity that will operate the program. All programs that receive 21st Century Grant funds must be licensed unless a school district runs the program. If a site relocates, a new

exemption letter is required. The center regulations do not actually state that sites need an exemption letter; they state that places that meet certain criteria are exempt.

Upon receipt of this application, the supervisor contacts the inquirer if additional information is needed to make a decision. The supervisor gives the application, supporting documents, and a note with the exemption number or reason for denial to support staff. Support staff records the information in FACTS and on a master spreadsheet. Support staff then creates and sends via mail and email a "Notice of License Exemption" or "Notice of License Exemption Denial" signed by the supervisor to the inquirer granting or denying the request of license exemption.

Additional specific license exemption procedures:

1. A program applies to OCCL for an exemption.
2. To receive an exemption for summer camp, the program must serve only school-age children; operate during June, July, August, or when school is out; and cannot state on the application that it offers before and after care. The program can be held indoors or outdoors.
3. Summer camp staff are now given Child Protection Registry checks and have their backgrounds reviewed in DELJIS.
4. Family providers, large family providers, and center owners can request a summer camp exemption, as long as the camp is at a separate location. A family provider must not provide care at the licensed home when the camp is operating, unless staff for the camp is hired and OCCL enters into an agreement of understanding (AOU) with the provider.
5. A family provider, who closes in the summer, may be granted a summer camp exemption with an AOU stating that both will not operate at the same time.
6. The exemption is approved by a supervisor – currently Maxine Travis in Dover and Ann Ryan in Wilmington.
7. Support staff – Ann Bercy, Wilmington and Dover, process the letter to the applicant with electronic copies to: Jacqueline Bensel DSS, DHSS - Doug Lodge DPH, DHSS and Jae Kim DPH, DHSS and Patricia O'Rourke, CHU, DSCYF. Applicant receives letter electronically and US mail.
8. Support staff person copies letter into existing FACTS file or a new entry is created. Exemption folder with letter/application is managed by Ann Bercy, Wilmington and TBD, Dover.
9. Support staff person logs applicant name, email and other related information on the MASTER SPREADSHEET WORKBOOK in TWO PLACES - current year WORKSHEET and universal WORKSHEET that is located in the OCCL folder on the "U" drive.
10. Patricia O' Rourke checks list of DHSS license exempt providers to determine if youth camp is on it. If the youth camp is on the list that indicates, staff members are being fingerprinted through DHSS and no further follow up is needed.
11. If youth camp is not on the DHSS list of license exempt providers, Patricia O' Rourke will forward their information to Ruth Hess. Ruth will email the camp the **Youth Camp Registration Form** and the **Background Check Guidelines for Youth Camps**, in order for them to register with the Criminal History Unit for background checks.
12. If it is determined later that the camp has applied for or is receiving POC funds from DHSS, Patricia O'Rourke will call the camp contact person if the CHU is already doing name-based background checks on them. Patricia will explain that their staff should no longer do the name-based checks; instead, they need to complete the fingerprint checks using the **DHSS LICENSE EXEMPT PROVIDER CRIMINAL HISTORY AND CHILD ABUSE AND NEGLECT BACKGROUND CHECK REQUEST FORM**. This form is provided by DSS, DHSS. Patricia will update Ruth Hess of the change in background checks in order for Ruth to deactivate the camp from the Youth Camp background check listing in FACTS. Patricia will follow up with DHSS as needed.

Martial Arts Programs:

- Can conduct lessons (lessons only, not child care, as in advertised before and/or after care) and provide transportation without being licensed.

- Can only operate for the time it takes to transport the children from school, for the kids to change their clothes, and to participate in the lesson.
- Cannot advertise that it provides care or operates for longer periods on days when school is not in session.

3. Requests for Licensing Information

3.1 General Information

WILMINGTON OFFICE: Support staff schedules consistent weekly file review times, and specialists' intake, information session, and orientation assignments. This information is provided quarterly to administrators, supervisors, and specialists.

DOVER OFFICE: Support staff or an intake specialist records the name and telephone number of the caller and informs the caller the assigned specialist will contact the caller the next day to schedule the file review, as Dover specialists conduct file reviews for their own facilities. The specialist schedules the review and informs support staff, who ensures files are ready for review. If there is a pending application, it is part of the file review. (Specialists are always assigned the same day of the week for intake/coverage.) Specialists notify support staff of their training assignments for information sessions and orientation by posting them on the wall in support staff's office area.

3.2 Inquiries

An inquiry is a request for information about the licensing process or regulations made by a person or an organization. All inquiries must be recorded and maintained by OCCL.

Support staff uses the following procedures to document inquiries in FACTS:

- Gather and record basic information about the inquirer in FACTS, including name, date of birth, race, address, telephone number, and type of facility in which the inquirer is interested;
- If the inquirer has internet access, refer the inquirer to OCCL's website to view the facility regulations and other important information. If the inquirer does not have internet access, refer the inquirer to the local library for computer access;
- If the inquirer has specific questions and needs further assistance, forward the caller to the intake specialist; and
- If the inquirer wants to learn more about the licensing process, he or she is invited and scheduled to attend an upcoming information session for FCCHs/LFCCHs or centers.

4. Family and Large Family Child Care Home Licensing Procedures

4.1 Inquiries/Information Session

People interested in opening a FCCH or LFCCH are required to attend an information session to obtain a clear understanding of what is required to submit an application. They may register using OCCL's website or by calling.

Support staff uses the following procedures for FCCH/LFCCH Inquiries:

- Gather and record basic information about the inquirer in FACTS, including name, race, gender, date of birth, address, telephone number, and email address;
- Schedule the inquirer for an upcoming information session; and
- Explain that applications and other materials will be distributed at the information session.

Support staff sends a confirmation email and calls individuals enrolled in the information session to remind them of the time, date, and location of the session.

Should the inquirer already be providing care to children and subject to licensure, support staff should treat the case as a self-reported allegation of unlicensed care and forward the caller to the intake specialist. The intake worker should encourage the inquirer to attend an information session and seek licensure. The intake specialist enters the caller's information into a FACTS hotline report (see Section 19).

Specialists conducting information sessions are to use the FCCH/LFCCH Information Session PowerPoint located on the u: drive. They should recommend for applicants interested in eventually becoming a Level II provider to get fire marshal approval with the approval code of 9662 rather than 9661. This will save them money by not needing an additional inspection when requesting to become a Level II provider.

Typically, participation in an information session expires after one year. However, supervisors have the ability to grant an exception to this policy on a case-by-case basis.

4.2 Application Review

WILMINGTON OFFICE: At the information session, applicants are instructed to visit OCCL during file review hours to have their completed initial application and supporting documentation reviewed by the intake specialist for accuracy and completeness. Before scheduling an orientation, the initial application must be approved as complete by a licensing specialist.

DOVER OFFICE: At the information session, applicants are instructed to call OCCL once they have completed the initial application. The specialist, who will be assigned, reviews the initial application for accuracy and completeness. Before scheduling an orientation, the initial application must be approved as complete by a licensing specialist.

A complete initial application must be notarized and include the following information:

- The level of the house on which care will be provided;
- Complete answers to all application questions;
- Correct menu, if providing food;
- Health appraisals and TB screenings or tests for the applicant and all household members including school-age children who are not attending a public or private school and excluding children enrolled in at least kindergarten at a public or private school;
- Fingerprint verifications for all adult household members;
- Substitute's health appraisal and TB screening or test;
- Substitute's fingerprint verification;
- Electrical inspection by an approved agency;
- Fire marshal inspection and approval;
- Names and addresses of three references (five references are required if the applicant does not have any work history);
- High school diploma or GED;
- Training and experience documentation, for those seeking to be a Level II provider or LFCCH provider- (Relative Care may count toward experience, if applicants provide documentation from POC that they provided care for two years for more than one child who was not their own);
- Certifications including first aid and Infant/Child CPR;
- Six hours of quality-assured child development training;
- Three hours of quality-assured positive behavior management training;
- Child abuse and neglect training,
- Pre-service health and safety training;

- Child abuse and neglect law acknowledgment;
- Applicant's service letters/Release of Employment History;
- Landlord approval documentation, if applicable;
- Delaware business license;
- City of Dover business license and Certificate of Occupancy, if applicable;
- Emergency plan (Emergency Planning Template);
- Zoning approval (In NCC, LFCCHs need a zoning certificate to show they have 10,000 square feet, two additional parking spaces, etc.) ;
- Approvals for well water, septic system, etc., if applicable;
- LFCCH only- lease or deed; and
- LFCCH only- lead paint risk-assessment and inspection, if applicable, for buildings built before 1978.

Applicants who have not completed the initial application and the items required on the "Application Packet Checklist" in its entirety are provided with a written list of the documentation needed for the initial application to be accepted. Applicants are instructed to return during file review hours with all the missing information to have the initial application rechecked. Changes made to the initial application such as notations, cross outs, and changes of address, may not be made by anyone other than the applicant and must be acknowledged by the applicant's initials on the altered sections. The address on the applicant's identification must match the address on the application to be able to sign up for orientation.

4.3 Orientation

Once a completed initial application has been reviewed and verified as complete by OCCL staff, the applicant is directed to support staff to be scheduled to attend an orientation.

Before each orientation, support staff calls applicants to remind them about the date, time, and location of the orientation.

Orientation provides a detailed overview of *DELACARE*. Specialists conducting orientations are to use the FCCH/LFCCH Orientation PowerPoint located on the u: drive. Specialists are to provide a copy of *DELACARE* to each participant. At the beginning of the orientation, the applicant submits the previously reviewed initial application to the specialist providing the orientation. This specialist gives them to the intake specialist to make sure the applications are complete and contain the necessary documents. If items are missing or incomplete, the intake worker discusses these items with the applicant. Once the orientation has ended, the applications and training evaluations are given to support staff.

4.4 Initial Application Phase

Support staff enters the initial application information into FACTS within five business days and gives these applications to a supervisor. The supervisor assigns a specialist to the applicant within five business days of receiving the initial application. An inquirer becomes an applicant when a completed initial application and required documentation is received by OCCL.

Support staff copies the first page of the application; sends, documents, and tracks receipt of the applicant's service letters and references; and conducts an applicant's adult abuse registry check.

- After 15 business days, support staff calls any person or organization who has not returned the service letter with a reminder that completion of this paperwork is required by state law. Support staff calls the applicant, reports any references who have failed to return the form, and asks the applicant to contact them or to provide new references.
- After 10 additional business days, if no service letter has been received, support staff contacts the applicant to obtain two additional references.
- Once all information is received, support staff delivers the packet to the assigned specialist.

4.5 Document Review

The assigned specialist conducts a thorough investigation by reviewing at least the following information to determine suitability:

- Applicant's service letters (if moving from FCCH to LFCCH copy these for file);
- Applicant's references (if moving from FCCH to LFCCH copy these for file);
- Applicant's and adult household members' background checks, DFS history, and adult abuse registry checks (fingerprinting is only required for people with direct access to children) and eligibility;
- Health appraisals and TB screenings or tests for the applicant and all household members including school-age children who are not attending a public or private school and excluding children enrolled in at least a kindergarten public or private school (if moving from FCCH to LFCCH copy these for file);
- Fingerprint verifications for all adult household members;
- Electrical inspection;
- Fire marshal inspection/approval;
- Delaware business license;
- State identification, if the licensee lives in the home the address on application must match the ID;
- City of Dover business license, if applicable;
- Zoning approval;
- Certificate of Occupancy/Use (from zoning);
- DNREC approval, required if using well water;
- OCCL history;
- Food Establishment Permit, if applicable;
- Documentation of appropriate qualifications for applicant, provider (if provider is not the applicant), staff members, and substitute, including administrative training and infant/toddler training, if applicable. A LFCCH may open with a provider and substitute, an additional staff is needed once the home exceeds the capacity of a Level II FCCH. Relative Care can count toward experience if applicants or LFCCH assistants provide documentation from POC that they provided care for two years for more than one child who was not their own; and
- LFCCH only -Certificate of liability insurance (this may be purchased right before the pre-licensing visit.

The specialist adds the household members, staff, and substitute listed on the application to the FACTS people screen. The applicant and each household member are checked in CYCIS (if born before 1/2/1982) and in FACTS for any criminal history and any other agency activity. If any activity is listed, the specialist reviews the case notes and discusses the situation with the supervisor. Some information can only be viewed by the supervisor; the specialist should review such instances with the supervisor.

If the applicant, household member, staff, or substitute is deemed ineligible or prohibited, the specialist confers with the supervisor within five days of being assigned the case regarding a course of action. The final decision rests with OCCL's administrator.

If it is agreed that a "Notice of Intent to Deny License Application" will be sent, the specialist contacts the applicant advising of this action and offering the opportunity to withdraw the application. If the applicant does not withdraw, OCCL sends the "Notice of Intent to Deny License Application." If the applicant wishes to withdraw the application, the specialist sends a "Notice of Application Withdrawal to Avoid Enforcement Action."

4.6 Pre-Licensing Visit

Once the above documents are received and eligibility is confirmed, the specialist schedules and conducts a pre-licensing visit within 10 business days, unless otherwise requested by the applicant. No initial license will be issued

unless a visit has been made to the applicant's home or a commercial location, in the case of a LFCCH. A FCCH site must be the private home where the licensee lives and provides services.

For this pre-licensing visit, the specialist completes a full compliance record form noting items requiring correction. The specialist crosses out the compliance code for NC and writes the words "needs correction." For example, rather than Non-compliance =NC, Needs Correction =NC will be written. This is signed by the specialist and applicant. Since the applicant is not licensed, any required corrections are noted in the notes/recommendations section of the compliance form and not cited as non-compliance in FACTS. Technical assistance is provided. All items listed must be corrected and noted as corrected in the FACTS notes/recommendations section before an initial-provisional license is issued. The specialist enters the findings of this review into FACTS within five business days of the visit. The specialist also updates the resource screen by entering the age range accepted, the opening and closing times, and the maximum capacity. Unless limited by the fire marshal or zoning requirements, for FCCHs, the specialist lists the maximum capacity in the FACTS resource screen as six for Level I and as nine for Level II. Unless limited by the fire marshal or zoning requirements, for LFCCHs, the specialist lists the maximum capacity as 12. The regulated services, special conditions, and financial arrangements screens are also updated based on the information listed on the application. Specialists should list school-age care under regulated services only if that is the only age group served by the facility.

During the visit, the specialist records measurements of the facility's space using the "Guidelines for Measuring Child Care Facilities" and enters this data into the notes/recommendation section in FACTS. If the applicant does not fully comply with *DELACARE*, the applicant is given time to correct the areas of non-compliance and a license to operate is not issued at this time. Another visit may be scheduled to verify areas of compliance, unless documentation of corrections can be submitted. The facility must be in full compliance with *DELACARE* to be issued an initial-provisional license. The specialist instructs the licensees to call OCCL when they have children in care.

4.7 Initial-Provisional License

If the applicant fully complies with *DELACARE* upon completion of a pre-licensing visit, the specialist recommends a six-month initial-provisional license be issued.

Within five business days for FCCHs, the specialist enters the following information on the FACTS license action screen: the expiration dates of the electrical inspection; first aid and CPR expirations; Delaware business license; Wilmington fire marshal expiration, if applicable; and substitute's type (emergency use or non-emergency use) and training information. Specialists, who have facilities located in Dover, also list the expiration dates of the City of Dover business license, Certificate of Occupancy, and fire marshal inspection. The specialist also lists if the applicant is qualified as a Level 1 or Level II provider; indicates that the criminal, DFS, and CYCIS (if born before 1/2/1982) backgrounds of each adult affiliated with the home have been reviewed; documents the dual service agreement was updated or the AOU was reviewed, if applicable; and documents the resource screen was updated. In cases when a provider is opening as a Level II, the specialist issues a Level II certificate to be mailed out with the license.

Within five business days for LFCCHs, the specialist enters the following information on the FACTS license action screen: the expiration dates of the electrical inspection, fire marshal inspection, and Delaware business license; that the criminal, DFS, and CYCIS (if born before 1/2/1982) backgrounds of each adult affiliated with the home have been reviewed, substitute's type (emergency use or non-emergency use) and training information; and documents the resource screen was updated. Specialists, who have facilities located in Dover, also list the expiration dates of the City of Dover business license, Certificate of Occupancy, and fire marshal inspection.

The compliance review and application are placed in the appropriate location as determined by the supervisor for review or approval within five business days. Upon approval, the supervisor gives these materials to the specialist to issue a six-month initial-provisional license. The specialist returns the materials along with the printed license to the supervisor for approval. The supervisor gives the documentation to support staff to create the licensing record and to mail the license within five business days.

If an initial-provisional license to operate is denied, the applicant is notified in writing within five business days of the reason for denial and of the applicant's right to appeal the decision (see Sections 14.16-14.19).

4.8 Six-Month Review

The specialist conducts an unannounced full compliance review at least 30 days before the expiration of the initial-provisional license and enters the information into FACTS within five business days. If non-compliance is observed, a corrective action plan is developed. If full compliance is met, the specialist recommends to the supervisor that an annual license be issued from the initial-provisional license's expiration date for the following six months. If full compliance is not met before the end of the initial-provisional license, the specialist recommends a provisional license be issued to allow time for corrective action to occur. The length of time for this provisional license will vary depending on the number, severity, and complexity of the non-compliances cited. Technical assistance will be available to the licensee throughout the term of the provisional license. Specialists will discuss licensees who do not obtain an annual license after being issued a provisional license with the supervisor to see if an enforcement action is warranted. Even if there are no children in care, the home must still be set up for care to obtain an annual license.

4.9 Annual License

The specialist conducts an unannounced full compliance review no later than 30 days before license expiration and records the results of the visit in FACTS within five business days. If full compliance is achieved, the specialist recommends, issues, and provides an annual license to the supervisor for approval. If the home is not in full compliance, a provisional license is recommended.

The specialist reviews the FACTS people screen within five business days to activate or inactivate staff members, substitutes, or household members that are involved or no longer involved with the facility. The specialist views the DFS history of all household, staff members, and substitutes and ensures that all adults in these roles have been fingerprinted. The specialist also updates the resource screen, regulated services, and financial arrangements. School-age care is to be listed under regulated services only if that is the only age group served by the facility.

Upon approval by the supervisor, the original license and licensing record are given to support staff. Support staff makes a copy of the license, places it in the licensing record, and mails the license to the licensee within five business days.

A license is issued only to the licensee named on the application and is valid only for the address shown on the application. A license is not transferable, assignable, or subject to sale.

After the first year of licensure, an annual license shall be effective for one year from the date of issuance, unless it is:

1. Modified to a provisional license;
2. Revoked;
3. Surrendered before the expiration date;
4. Nullified; or
5. Suspended.

4.10 Provisional License

After the completion of an unannounced full compliance review, if a licensee has non-compliance that cannot be or has not been corrected before license expiration, the specialist recommends, issues, and provides a provisional license to the supervisor for approval. If corrective action is not submitted by the fifth day after license expiration, the specialist issues a one-month provisional license to allow time for compliance. A provisional license is issued when a licensee is temporarily unable to comply with all of the regulations and when OCCL determines that:

- There is no serious risk to the health, safety and well-being of the children;
- The licensee agrees to fulfill and operate under conditions as stated in a written corrective action plan as developed by OCCL and the licensee;
- The licensee demonstrates intent to comply with the corrective action plan in a timely manner; and
- The licensee demonstrates a good faith effort to achieve compliance, but requires additional time to achieve compliance.

The specialist completes a “Corrective Action Plan” to send with the provisional license that outlines the corrective action that is needed in order to obtain an annual license. A provisional license may be replaced with an annual license in advance of the expiration date of the provisional license, after the corrective action is completed by the licensee and approved by OCCL.

A provisional license is to be issued for no longer than a three-month period. If additional time is needed, the specialist completes a “Request for Additional Provisional License” and gives it to OCCL’s administrator for approval.

4.11 License Renewal

The licensee shall be required to renew a license annually. After the first year of licensure, an annual license shall expire one year from the date of issuance.

Approximately 90 days before the expiration date of the annual license, support staff sends a “Notice of License Expiration: Family or Large Family Child Care Home” notifying the licensee of the approaching expiration date of the license. This letter will be accompanied by a renewal application and materials relating to the application. Specialists need to pay attention to the application to make sure the same applicant is listed each year. If there is a change, they must contact the applicant for clarification and, when necessary, send the application back to be revised to include the proper information.

The specialist conducts an unannounced full compliance review no later than 30 days before license expiration and records this visit into FACTS within five business days of the visit.

At least 60 days before the expiration of the current license, the licensee must submit a completed, signed, and notarized “Renewal License Application” and all other required materials to OCCL. If the renewal application is incomplete, the specialist contacts the licensee or sends an “Incomplete License Application” to the licensee advising them of what is missing and requests completion of the renewal application form. If the licensee does not list a substitute on the line provided, the specialist contacts the licensee to determine the substitute and makes a resource note in FACTS that lists the substitute’s name. The resource note is to be printed and added to the renewal application packet. A licensee can have more than one substitute.

When the renewal application materials are complete, the specialist conducts a thorough investigation. As a part of this, she conducts an unannounced full compliance review and reviews the renewal application, licensing record, and FACTS to ensure:

- The address and phone numbers listed on the application are the same as those listed in FACTS;
- The licensee has included the certificates or transcript for the required clock hours of training. To be valid, training hours must be completed within that licensing year in the specified topics listed in *DELACARE*;
- CPR certification is current and pertinent to the ages of the children served;
- First aid certification is current;
- Electrical inspection is current;
- Attendance capacity is correct for Level I, Level II, LFCCH as applicable;

- The household members, staff, and substitute information in the FACTS people screen is updated by inactivating or adding people as applicable;
- Delaware business license is current;
- Annual fire marshal inspection for LFCCHs;
- City of Dover business license, fire marshal, and Certificate of Occupancy are current, if applicable;
- Annual fire marshal inspection for City of Wilmington FCCHs, if applicable;
- The household members, substitute, licensee, and staff if applicable, are reviewed in FACTS to confirm they have had no criminal or other agency activity throughout the licensing year which is unknown to the specialist;
- All household members age 18 and older have been fingerprinted;
- The licensee has completed their corrective action plan within the specified time;
- The correct regulated services and financial arrangements are listed in FACTS; and
- The FACTS resource view screen has been updated to include hours of operation, current number of children enrolled, ages of children currently accepted (using infant, kindergarten, and the children's numerical age. Examples: 1 year-6 years, Infant-12 years, and kindergarten- 12 years. Specialists will not use abbreviations for infant, kindergarten, and years) and current contact information including the CHU email is correct.

The specialist updates the notes section of the FACTS license action screen to include the following information:

- Expiration date of Delaware business license;
- Expiration date of the electrical inspection;
- For FCCHs only-expiration dates of appropriate CPR and first aid certifications;
- Confirmation that criminal histories and Department histories of all adult household members, substitutes, and staff, if applicable have been reviewed and are suitable;
- Dual service and agreement of understanding have been updated or reviewed, if applicable;
- Number of annual training hours;
- Substitute's type (emergency use or non-emergency use) and training information;
- Dover facilities only-fire marshal/Certificate of Occupancy/Dover business license;
- City of Wilmington only-expiration date of fire marshal inspection;
- LFCCHs only- expiration date of fire marshal inspection; and
- Reasons for issuing provisional license, if applicable.

A provisional license is issued if the licensee cannot supply documentation of completing any of the following:

- Annual training hours;
- Current CPR and first aid certifications;
- A current electrical inspection;
- City of Dover business license and Certificate of Occupancy, if applicable;
- City of Wilmington fire marshal inspection;
- Fingerprinting of substitutes and adult household members;
- Adult health appraisals and TB screenings/tests for household members and substitutes; or
- Corrective action, before license expiration.

After printing an annual or provisional license, the specialist places the licensing record, renewal application, license, and "Corrective Action Plan," if applicable, in the appropriate location as determined by the supervisor for review and approval.

Upon approval, the supervisor gives the licensing record to support staff to make a copy of the license for the file and to mail the original license and "Corrective Action Plan," if applicable, to the licensee within five business days.

4.12 Failure to Apply for Renewal of Annual License

If the licensee fails to return the completed renewal application materials by the expiration date of the license, the specialist contacts the licensee informing him or her that the license has expired.

If the renewal application is received after license expiration, the new license period shall begin effective on the date the completed renewal application is received and date stamped by support staff.

If a renewal application is not received by the expiration date of the license, the specialist sends a “Notice of Pending License Termination: No Application Submitted” to the licensee. A copy of this notice is placed in the licensing record. If the licensee fails to submit the renewal application within the required time, the specialist closes the home in FACTS and mails a “Notice of License Termination” to the licensee. The household members, substitute, and staff, if applicable, in the FACTS people screen are inactivated. The specialist places the closed licensing record in the area designated for closed files. The specialist notifies POC, CACFP, and Stars that the facility has closed and makes a resource note in FACTS that includes the email that was sent to these agencies.

4.13 Procedures for Applications Received after Closure

The specialist requests the closed licensing record from support staff’s archives. This file is used in the creation of a new licensing record.

Providers closed for more than three months, must complete a new initial application. Any grandfathering or grand-mothering provisions previously in place no longer apply. The application procedures are the same as for new applicants except that attendance at an information and orientation session may not be required unless *DELACARE* has changed or the licensee’s compliance history is not favorable. The specialist conducts a pre-licensing visit before the issuance of an initial-provisional license. The initial-provisional license is issued with a new starting date based on the completion of the pre-licensing visit. The specialist reviews the licensing history. If the provider closed while on an enforcement action, he or she may be opened on the same enforcement action or with an agreement of understanding.

Providers opening within three months of closing keep the grandfathering for the provider’s educational requirement. The provider, adult household members, substitute, or staff, if applicable, need to be re-fingerprinted. The dates of the license will align with the previous annual license. For example, Jenny Smith’s license was valid March 1, 2017- February 28, 2018. She closed August 4, 2017. She submits an application and necessary documents. A pre-licensing visit is conducted on October 5, 2017. The provider must be in full compliance to be issued a license. Her annual license is issued October 6, 2017-February 28, 2018. When the provider has been closed for less than three months, an annual license, not an initial-provisional license, is issued.

If the provider does not open within three months of closure, the provider loses the grandfathering for the provider’s educational requirement. The provider, adult household members, substitute, or staff, if applicable, need to be re-fingerprinted. The provider must complete an initial-license application (see Section 4.2). Providers will be issued an initial-provisional license if they were closed for more than three months.

4.14 Moving from Level I to Level II

Licensees wishing to move from a Level I to a Level II FCCH must meet the criteria contained in *DELACARE* and obtain documentation of fire marshal inspection and approval. The licensee submits this documentation to OCCL along with a “Request To Become a Level II Family Child Care Home” form.

The specialist measures the rooms used for care to ensure that the measurements are in accordance with the regulations. There should be enough space for the maximum number of children permitted in care at one time. Measurements of the facility’s space are taken using the “Guidelines for Measuring Child Care Facilities” and recorded into FACTS in the notes/recommendation section of the facility visit.

Once a licensee meets these criteria, the specialist changes the regulated services listed on the license within five business days to reflect Level II, generates a “Level II Certificate of Qualifications”, completes the “Approval for Level II” form, and prints a new license. The specialist issues the license with the Level II effective date as of the date of the printing and records the message “Moved to Level II” and the date on the subject note of the FACTS license action. The file and revised license are given to the supervisor for review and approval within five business days. After approval, the supervisor gives the file and revised license to support staff. Support staff mails the “Certificate of Qualifications” along with the revised license to the licensee within five business days and places copies in the licensing record.

Zoning in Middletown only allows a provider to have six children.

4.15 Relocation

The licensee must report in writing or by direct voice contact to OCCL at least 30 days in advance of a change in address of the FCCH or LCCH. The specialist sends a relocation application to the licensee. A new license is required at the new address before providing child care services.

If the licensee moves without providing advance notification to OCCL, but later informs OCCL of the change in location, the specialist mails a relocation application and a “Child Care License Required” within five business days of learning about the relocation. This letter reminds the licensee that the previous license is no longer valid and child care may not be provided until the new location has been approved and licensed by OCCL. The specialist notifies POC, Stars, and CACFP of the licensee’s move. The specialist closes the license in FACTS.

Providers opening within three months of closing keep the grandfathering for the provider’s educational requirement. The provider, adult household members, substitute, and staff, if applicable, need to be re-fingerprinted. If there is no break in care, he or she keeps the grandfathering and does not need to be fingerprinted. The dates of the license will align with the previous annual license. For example, Jenny Smith’s license was valid March 1, 2017- February 28, 2018. She moves August 28, 2017. Her license is closed. She submits a relocation application and necessary documents. A pre-licensing visit is conducted on October 5, 2017. The provider must be in full compliance to be issued a license. Her annual license is issued October 6, 2017-February 28, 2018. When the provider has been closed for less than three months, an annual license is issued for a relocation. The specialist changes the address in FACTS before issuing the new license.

If the provider does not open with three months of closure, the provider loses the grandfathering for the provider’s educational requirement. The provider, adult household members, substitute, and staff, if applicable, need to be re-fingerprinted. The provider must complete an initial-license application (see section 4.2.) Providers will be issued an initial-provisional license if they were closed for more than three months.

If OCCL determines a provider is providing care at a new location without a license, a “Cease Operation of Unlicensed Family or Large Family Child Care Home Order” is sent to the provider within five business days along with a relocation application.

Once the licensee has submitted a relocation application, the assigned specialist reviews the following information to determine suitability of the new location:

- An electrical inspection;
- Zoning approval;
- Certificate of Occupancy/Use (from zoning), if applicable;
- Fire marshal approval;
- Food Establishment Permit, if applicable;
- City of Dover business license, if applicable;

- Delaware business license;
- Lead paint inspection, if building was built before 1978;
- DNREC approval, if applicable;
- Office of Drinking Water, if using well water; and
- Certificate of liability insurance with new address.

The specialist schedules a compliance review at the new location within 10 business days. This visit will determine if an annual or provisional license is recommended by the specialist. A six-month visit is not required for a relocation.

4.16 Nullification of a Family or Large Family Child Care License

A FCCH or LFCCH license shall immediately become invalid when any of the following occurs:

- The licensee no longer resides at the FCCH or LFCCH for which the license was issued;
- The licensee changes the location of the FCCH or LFCCH;
- The licensee surrenders the license to OCCL;
- The license has been revoked;
- The license has expired; or
- The licensee notifies OCCL that he or she closed.

4.17 Structure of Licensing Record

Licensing file materials are sorted into six sections. All items in the records should be two-hole punched and filed in the appropriate section. All materials in the record are to be grouped by topic in each section except section 3. Place the documents in reverse chronological order with the most current on top. Items are listed in the order they should appear. Standards complaint investigations with codes, hotline reports, and investigation notes are placed in a separate file as determined by the supervisor. Post-it® notes are not to be in the files.

File items should be **grouped together** by topic in each section except for section three in reverse chronological order (present-past):

If something is not listed, place it in the confidential file.

Section 1	License/license action note/related non-confidential resource note
Section 2	File review forms; completed applications, excluding confidential answers to questions; if providing food, current two-week menu; and current emergency plan
Section 3	Agreement of understanding/ Dual service agreement (on top);* enforcement actions; standards complaints; and IA case form, if applicable
Section 4	Current state business license; current City of Dover business license/Certificate of Occupancy, if applicable; LLC or corporation documentation, if applicable; current liability insurance, if applicable; current electrical inspection, current fire marshal approval, if applicable; initial fire marshal approval; (LFCCH only- old plan review materials (narrative, diagrams, pre-2017 emergency plan)); lead-paint risk assessment and abatement documentation, if applicable; business plan, if applicable excluding financial documentation; zoning approval; property owner approval, if applicable; fingerprint receipts; and water analysis

Section 5 Variance; Level II certificate, if applicable; annual training record forms; current first aid and CPR certifications; high school diploma or GED/other degrees; parent handbook; staff handbook, if applicable; and correspondence

Section 6 Corrective action plan/compliance review

Confidential: Keep the following items in a manila confidential folder inside the file:

- Health appraisals (adult & child)
- *Agreement of understanding (that contain info about a person's criminal history)
- Applicant's adult abuse registry, service letters, and references
- Photo ID
- Educational/training documentation
- Marriage/divorce certificate for name changes
- Most recent tickler
- Emails between agencies or provider
- Financial documentation from business plan, if applicable
- Children's last names (from former applications)
- Criminal history reports
- Accident/Injury forms (organized with a cover sheet)
- IA complaints and affidavits
- LFCCH only-employee checklist (keep three years' worth)

5. Center Licensing Procedures

5.1 Inquiries/Information Session

All persons interested in owning or operating a center are required to attend an information session to obtain a clear understanding of what is required to submit an application. They may register using OCCL's website or by calling.

Support staff uses the following procedures for center inquiries:

- Gather and record basic information about the inquirer in FACTS, including name, race, gender, date of birth, address, telephone number, and email address;
- Schedule the inquirer for an upcoming information session; and
- Explain that applications and other materials will be distributed at the information session.

Support staff sends a confirmation email and calls individuals enrolled in the information session to indicate the time, date, and location of the session.

Typically, participation in an information session expires after one year. However, supervisors have the ability to grant an exception to policy on a case-by-case basis.

5.2 Application Review

WILMINGTON OFFICE: At the information session, applicants are instructed to visit OCCL during file review hours to have their completed initial application and supporting documentation reviewed by the intake specialist for accuracy and completeness. Before scheduling an orientation, the initial application must be approved as complete by a licensing specialist.

DOVER OFFICE: At the information session, applicants are instructed to call OCCL once they have completed the initial application. A specialist reviews the initial application for accuracy and completeness. Before scheduling an orientation, the initial application must be approved as complete by a licensing specialist.

A complete application must be notarized and include the following information:

- OCCL Plan Review narrative;
- If entity is an LLC, an LLC agreement or articles/certificate of incorporation;
- Names and addresses of three references for applicant/owner;
- Release of Employment History & service letters for applicant/owner ;
- Business plan (including financial statements)*;
- Deed or lease for center location;
- Blueprints/Floor Plans; and
- Sample two-week menu (if center provides food).

* When a licensed applicant wants to open a new center, a business plan is not required if the applicant already owns two centers.

Applicants who have not completed the initial application and the items required on the “Application Packet Checklist” in its entirety are provided with a written list of the documentation needed for the initial application to be accepted. Applicants are instructed to return during file review hours with all the missing information to have the initial application rechecked. Changes made to the initial application such as notations, cross outs, and changes of address, may not be made by anyone other than the applicant and must be acknowledged by the applicant’s initials on the altered sections.

5.3 Orientation

Once a completed initial application has been reviewed and verified as complete by OCCL staff, the applicant is directed to support staff to be scheduled to attend an orientation.

Before each orientation, support staff makes reminder calls to applicants and reminds them to bring their completed application to orientation.

Orientation provides a detailed overview of *DELACARE*. At the beginning of the orientation, the applicant submits the previously reviewed initial application to the facilitator of the orientation. The facilitator gives them to the intake specialist to make sure the applications are complete and contain the necessary documents. If items are missing or incomplete, the intake worker discusses these items with the applicant. The applications are given to support staff. Participants are given a copy of *DELACARE* at the orientation.

5.4 Initial Application Phase

After entering the initial application information into FACTS within five business days, support staff gives these materials to a supervisor who assigns a specialist to the applicant within five business days of the receipt of the initial application.

Support staff copies the first page of the initial application and the page that lists the references and removes the service letters and Release of Employment for mailing. Support staff sends the references a “Center-Reference Sheet.”

Support staff tracks receipt of the applicants/owner’s service letters and references and conducts adult abuse registry checks.

- After 15 business days, support staff calls any person or organization who has not returned the service letter with a reminder that completion of this paperwork is required by state law. Support staff calls the

applicant/owner, reports any references who have failed to return the form, and asks the applicant/owner to contact them or to provide new references.

- After 10 additional business days, if no service letter has been received, support staff contacts the applicant/owner to obtain two additional references.
- Once all information is received, support staff delivers the packet to the assigned specialist.

If the initial application is incomplete or incorrect, the specialist contacts the applicant in writing within five business days.

If the application form is complete and correct, the specialist then checks the Plan Review narrative to verify it contains all of the required correct information. If information is missing or incorrect, the specialist contacts the applicant to request the missing or correct information. The specialist confers with the supervisor to see if a food establishment permit is needed. If one is required, the specialist contacts the applicant and instructs him or her to contact Public Health to learn about and obtain a food establishment permit. Once the narrative is complete, the specialist completes a "Request for OCCL Plan Review" form and submits the business plan, floor plan, Plan Review narrative, and the completed Request Form to the supervisor within five business days after receiving the initial-license application. The supervisor determines if the plan is approved.

If the plan is approved, a "Certificate of Approval" is sent to the applicant by the supervisor with a copy to the specialist within five business days.

If the plan is not approved, the applicant has the opportunity to make the necessary changes to allow the plan to be approved. The supervisor contacts the applicant in writing to request the missing information within five business days after receiving the plan.

Specialists should consult the "Center Application Checklist" for a complete listing of items needed to complete the licensing application process. As items arrive in the office, support staff gives them to the assigned specialist who tracks the progress and places the items in the applicant's file.

5.5 Document Review

The assigned specialist conducts a thorough investigation by reviewing at least, but not limited to, the following information to determine suitability of the applicant and proposed administrator:

- Background checks (only required for applicants/owners with direct access to children);
- OCCL history;
- Business plan;
- Applicant/Owner's references ;
- Applicant/Owner's service letters;
- Applicant/Owner's DFS history;
- Applicant/Owner's adult abuse registry checks;
- For EC Center- DE First Certificates for EC administrator and one staff member qualified as at least an EC teacher;
- For a SA only center- DE First Certificate for SA administrator and one staff member qualified as at least a SA site assistant;
- Fingerprint verifications and eligibility determination for applicant/owner, administrator, and any qualified staff members that will be left alone with children; and
- Adult Health Appraisal for applicant/owner (if will be physically present at the center at any time).

During the thorough investigation, the specialist also confirms:

- Lease or deed;

- Zoning approval;
- Certificate of Occupancy/Use (from zoning) – new applicants who are using a previously licensed center that has not been renovated are able to use the previous C of O;
- Fire marshal final approval;
- Lead paint inspection if building was built before 1978 (performed by a certified lead contractor [current list is found at <http://www.dhss.delaware.gov/dhss/dph/hsp/files/leadcert.pdf>]) *;
- DNREC approval required if using well water;
- OCCL Plan Review Approval;
- Delaware business license (unless non-profit) (address must match business’);
- City of Dover business license and Certificate of Occupancy, if applicable;
- Certificate of liability insurance;
- Food Establishment Permit, if applicable; and
- Staff and parent handbooks with all required information.

* Supervisors are to email lead paint inspections to PH Management Analyst (currently Bill Leitzinger) to ensure they are acceptable as part of the plan review process.

5.6 Pre-Licensing Visit

If the above documents are received and suitability is confirmed, the specialist schedules and conducts a pre-licensing visit within 10 business days, unless otherwise requested by the applicant.

For this pre-licensing visit, the specialist completes a full compliance record form noting items requiring correction. The specialist crosses out the compliance code for NC and writes the words “needs correction.” For example, rather than Non-compliance =NC, Needs Correction =NC will be written. This is signed by the specialist and applicant. Since the applicant is not licensed, any required corrections are noted in the notes/recommendations section of the compliance form and not cited as non-compliance in FACTS. Technical assistance is provided. All items listed must be corrected and noted as corrected in the FACTS notes/recommendations section before an initial-provisional license is issued. If the applicant does not fully comply with *DELACARE*, the applicant is given time to correct the areas of non-compliance and a license to operate is not issued at this time. Another visit may be scheduled to verify areas of compliance, unless documentation of corrections can be submitted.

The specialist enters the findings of this review into FACTS within five business days of the visit. The specialist updates the resource screen by entering the age range accepted, the opening and closing times, and the maximum capacity. The specialist updates the FACTS people screen to ensure that all staff members and volunteers, as appropriate, involved in the facility were fingerprinted and are listed as active. The specialist also enters the regulated services, special conditions, and financial arrangements information. School-age care is to be listed under regulated services only if that is the only age group served by the facility.

To open a center, at least two staff files are needed that include: application, date of hire, date of birth, job description, reference letters, Release of Employment History & service letters, employee declaration, reporting child abuse and neglect acknowledgement, alcohol/illegal drug prohibition acknowledgement, orientation, verification of fingerprinting, adult abuse registry check, CPR and first aid certifications, and DE First Certificate or educational documentation (diplomas, transcripts, or training certificates).

During the visit, the specialist completes and records measurements using the “Guidelines for Measuring Child Care Facilities” of the facility’s space and enters this data into FACTS in the notes/recommendation section of the pre-licensing facility visit. When measuring centers for capacity, only rooms used as a classroom are counted, i.e. a multi-

purpose room that is used for activities, but has no classroom assigned to it, is not counted in capacity. The square footage of a multipurpose room should be noted, but not counted in the capacity, if not used as a classroom.

When determining capacity of a center, the specialist measures the rooms and lists the capacity based on 35 square feet per child. The specialist does not limit the capacity of a room based on maximum group size. When determining the total capacity, the specialist considers the total square footage of classroom space and the number of toilets for children ages 24 months and older. If the center reports they are dividing a room into two areas/classrooms, OCCL needs to approve the plan of how they are going to do that. Assuming the center has the required space and toilets, the highest capacity is listed in FACTS for a program that increases enrollment for summer camp.

5.7 Initial-Provisional License

Upon satisfactory completion of a pre-licensing visit, the specialist recommends a six-month initial-provisional license be issued if the applicant fully complies with *DELACARE*. Within five business days, the specialist enters the following information on the FACTS license action screen: the expiration dates of the fire marshal inspection and Delaware business license; that the criminal, DFS, and CYCIS (if born before 1/2/1982) backgrounds were checked, and the resource screen was updated. Specialists, who have facilities located in Dover, also list the expiration dates of the City of Dover business license, and Certificate of Occupancy.

The specialist completes a “Center Application Checklist.” The compliance review and application are placed in the appropriate location as determined by the supervisor for review or approval within five business days. Upon approval, the supervisor gives these materials to the specialist to issue a six-month initial-provisional license. The specialist returns the materials along with the printed license to the supervisor for approval. The supervisor gives the documentation to support staff to create the licensing record and to mail the license within five business days.

If an initial-provisional license to operate is denied, the applicant is notified in writing of the reasons for denial and of the right to appeal (see Sections 14.16-14.19).

5.8 Sixty-Day Follow-Up Visit

The specialist conducts a follow-up unannounced visit within 60 days of the facility’s opening to determine compliance with regulations that were marked Not Determined (N/D) before the operation of the center, such as interactions with children and accuracy of child and staff files. The primary purpose of this visit is to provide technical assistance although noted non-compliance items will be cited.

The specialist enters the findings of this review into FACTS within five business days of the visit. The initial-provisional license remains in effect and unchanged.

5.9 Six-Month Review

The specialist conducts another unannounced full compliance review visit, at least 30 days before the expiration of the initial-provisional license, to determine continued compliance with *DELACARE* and to provide technical assistance. The findings of this review are entered into FACTS within five business days of the visit. The specialist uses this visit to determine whether to issue an annual or provisional license. The specialist also updates the resource view screen, regulated services, and financial arrangements in FACTS.

If full compliance is met, the specialist recommends to the supervisor that an annual license be issued, beginning from the initial-provisional license’s expiration date for the following six months.

If full compliance is not met, the specialist recommends to the supervisor that a provisional license be issued to allow time for corrective action to occur. The length of time for this provisional license may vary dependent on the number, severity, and complexity of the non-compliances cited, but is usually one-three months.

5.10 Annual License

The specialist updates the FACTS people screen within five business days of completing the full compliance review to activate any staff members (and volunteers as appropriate) involved in the facility and inactivate any staff members (and volunteers as appropriate) no longer employed or involved with the facility. The specialist ensures all staff members have been fingerprinted. The specialist also updates the resource screen, regulated services screen, and financial arrangements.

If the renewal application is not received in a timely manner, the specialist contacts the applicant to request the renewal application. The specialist conducts an unannounced visit no later than 30 days before license expiration and enters this visit into FACTS within five business days of the visit. A renewal application must be received to issue a license.

If a complete renewal application has been received and if the licensee is in full compliance with *DELACARE*, the specialist recommends to the supervisor that an annual license be issued. This determination is based on the thorough investigation and the results of the unannounced full compliance review.

Upon approval by the supervisor, the supervisor gives the original license and the licensing record to support staff. Support staff makes a copy of the license, places it in the licensing record, and mails the license to the licensee within five business days.

A license is issued only to the licensee named on the application and is valid only for the address of the facility shown on the application. This license is not transferable, assignable, or subject to sale.

After the first year of licensure, an annual license shall be effective for one year from the date of issuance, unless it is:

1. Modified to a provisional license;
2. Revoked;
3. Surrendered before the expiration date;
4. Nullified; or
5. Suspended.

5.11 Provisional License

After the completion of an unannounced full compliance review, if a licensee has non-compliance that cannot be or has not been corrected before license expiration, the specialist recommends, issues, and provides a provisional license to the supervisor for approval. If corrective action is not submitted by the fifth day after license expiration, the specialist issues a 1-month provisional license to allow time for compliance. A provisional license is issued when a licensee is temporarily unable to comply with all of the regulations and when OCCL determines that:

- There is no serious risk to the health, safety and well-being of the children;
- The licensee agrees to fulfill and operate under conditions as stated in a written corrective action plan as developed by OCCL and the licensee;
- The licensee demonstrates to OCCL his/her intent to comply with the corrective action plan in a timely manner; and
- The licensee demonstrates a good faith effort to achieve compliance but requires additional time to achieve compliance with applicable provisions of the regulations.

The specialist completes a “Corrective Action Plan for Centers” to send with the provisional license that outlines the corrective action that is needed in order to obtain an annual license. A provisional license may be replaced with an annual license in advance of the expiration date of the provisional license, after the corrective action is completed by the licensee and approved by OCCL.

A provisional license is to be given for no longer than a three-month period. If additional time is needed, the specialist completes a “Request for Additional Provisional License” and gives it to the supervisor for approval.

5.12 License Renewal

The licensee shall be required to renew a center license annually.

When a licensee makes timely and sufficient application for renewal of an annual license, the existing license shall not expire until OCCL makes a decision on the renewal application.

During the first year of licensure, an annual license shall be issued upon successful completion of the initial-provisional license period. After the first year of licensure, an annual license shall expire one year from the date of issuance.

A provisional license may be issued when OCCL determines that a licensee has demonstrated good faith efforts to achieve compliance but requires additional time to achieve full compliance with applicable provisions of the regulations.

Approximately 90 days before the expiration date of the annual license, support staff sends a “Notice of License Expiration: Center” notifying the facility of the approaching expiration date of the license. This letter will be accompanied by a renewal application and materials relating to the application.

At least 60 days before the expiration of the current license, all licensees must submit a completed, signed, and notarized “Center Renewal License Application” and all other required materials to OCCL. If the application is incomplete, the specialist contacts the licensee or sends an “Incomplete License Application: Center” letter to the licensee advising them of what is missing and requesting completion of the renewal application form. Specialists need to pay attention to the application to make sure the same applicant is listed each year. If there is a change, they must contact the applicant for clarification and, when necessary, send the application back to be revised to include the proper information. The applicant should be the entity, corporation, or individual owner of a facility. The managing member of the entity or individual owner needs to sign the application. The designated representative is not to be the administrator and he or she is not to sign the application unless written authorization is provided by the applicant allowing the designated representative to sign.

When the renewal application materials are complete, the specialist conducts a thorough investigation by evaluating the renewal application with accompanying materials.

The specialist reviews the renewal application, licensing record, and FACTS to ensure:

- The address and phone numbers listed on the application are the same as those listed in FACTS;
- The fire marshal inspection and approval has been completed;
- The information for staff members, administrator, and others involved in the facility is updated in the FACTS people screen by inactivating or adding people as applicable;
- The Delaware business license is current;
- The licensee has completed any previous corrective action within the specified time;
- The correct regulated services and financial arrangements are listed in FACTS; and
- The FACTS resource view screen has been updated to include hours of operation, number of children enrolled, contact information, CHU email, etc.

The specialist conducts an unannounced full compliance review of the facility after the application for license renewal has been received and reviewed. The specialist conducts an unannounced visit no later than 30 days before license expiration. The specialist enters the results of this compliance review into FACTS within five business days and determines if the facility will receive an annual or provisional license.

A provisional license is issued if the licensee has not supplied all needed paperwork and has not completed or could not supply documentation of corrective action for all non-compliances.

Variance requests must be reviewed during this time by submitting them to the resource and development administrator for review. The resource and development administrator forwards them to either the division director or OCCL administrator for approval or denial. Permanent variance requests must be approved by the division director and time limited variances must be approved by OCCL's administrator.

The specialist updates the notes section of the FACTS license action screen to include the following information:

- Date application was received;
- Date application was reviewed by specialist;
- Expiration date of Delaware business license;
- Date of fire marshal approval;
- Date of visit;
- Written indicator that the resource screen of FACTS has been updated;
- Written indicator that the people screen has been updated;
- Dover facilities only-City of Dover business license and Certificate of Occupancy; and
- Reason for provisional (if applicable).

An annual license is issued only when full compliance is met.

After printing an annual or provisional license, the specialist places the licensing record, renewal application, license, and "Corrective Action Plan for Centers," if applicable, in the appropriate location as determined by the supervisor for review.

Upon approval, the supervisor gives the licensing record to support staff to make a copy of the license for the file and to mail the original license and "Corrective Action Plan for Centers," if applicable, to the licensee within five business days.

5.13 Failure to Apply for Renewal of Annual License

If the licensee fails to return the completed renewal application materials by the expiration date of the license, the specialist contacts the licensee informing him or her that the license has expired.

If the renewal application is received after license expiration, the new license period shall begin effective on the date the completed renewal application is received and date stamped by support staff.

If a renewal application is not received by license expiration, the specialist sends a "Notice of Pending License Termination: No Application Submitted" to the licensee. A copy of this notice is placed in the licensing record. If the licensee fails to submit the renewal application within the required time, the specialist closes the center in FACTS entering the date of closure as the day following the date of the license's expiration and mails a "Notice of License Termination" to the licensee. The staff member information in the FACTS people screen is inactivated. The specialist notifies POC, CACFP, Stars, and the fire marshal of the facility's closure and makes a resource note in FACTS that includes the email that was sent to these agencies. The specialist places the closed licensing record in the area designated for closed files. The specialist visits the center within 10 business days to ensure unlicensed care is not being provided.

5.14 Procedures for Applications Received after Closure

When a facility has been closed, the licensee must complete a new initial application. Any grand-fathering or grand-mothering provisions previously in place no longer apply. The application procedures are the same as for new applicants except that attendance at an information and orientation session may not be required unless *DELACARE* has changed or the licensee's compliance history is not favorable.

In addition, the specialist:

- Requests the closed licensing record from support staff's archives. This file is used in creating a new licensing record;
- Ensures the licensee, staff members, and appropriate volunteers are fingerprinted again; and
- Reviews any DFS history of the applicant/owner.

The specialist completes a pre-licensing visit before the issuance of an initial-provisional license for any new applicant. The initial-provisional license is issued with a starting date based on the completion of the pre-licensing visit.

5.15 Relocation

The licensee must report in writing or by direct voice contact to OCCL at least 90 days in advance of a change of address for the facility. The specialist sends a relocation application and plan review narrative to the licensee, since an updated license is required at the new address before providing child care services. Once the licensee has submitted a relocation application, plan review narrative, and floor plans/blueprints to OCCL, the assigned specialist conducts a thorough investigation by conducting a pre-licensing visit and reviews the following information to determine suitability of the new location:

- Zoning approval;
- Certificate of Occupancy/Use (from zoning);
- Fire marshal approval;
- Food Establishment Permit (if applicable);
- City of Dover business license (if applicable);
- OCCL Plan Review Approval;
- Delaware business license;
- Lead paint inspection (if building was built before 1978);
- DNREC approval (if applicable)
- Office of Drinking Water (if using well water); and
- Certificate of liability insurance with new address.

Any non-compliance cited results in the issuance of a provisional license and a corrective action plan being developed. All non-compliance must be corrected before an annual license is issued for the new location. The specialist changes the address in FACTS, before issuing the new license. A six-month visit is not required for a relocation.

If the licensee moves without providing advance notification to OCCL, but later informs OCCL of the change in location, the specialist mails a relocation application, plan review narrative, and a "Child Care License Required" within five business days of learning about the relocation. This letter reminds the licensee that their previous license is no longer valid and child care may not be provided until the new location has been approved and licensed by OCCL. The specialist notifies POC, Stars, the fire marshal, and CACFP of the licensee's move. The specialist closes the license in FACTS. The staff members' information in the FACTS people screen is inactivated.

If OCCL determines a provider is providing child care at a new location without a license, the specialist sends a “Cease Operation of Unlicensed Facility Order” to the provider within five business days along with a relocation application and plan review narrative.

5.16 Nullification of Center License

A center license shall immediately become invalid when any of the following occurs:

- A center is sold, leased, or discontinued;
- The operation has moved to a new location; or
- The license has been revoked.

5.17 Terms of a License

The license shall contain and display the following:

1. Status of the license: initial-provisional, annual, provisional, or extension;
2. Effective date;
3. Expiration date;
4. The maximum number of children who may be served at one time; and
5. The applicable type of regulated service for which authorization to operate has been granted.

A licensee shall operate a center within the terms of its license.

5.18 Changes Affecting License

OCCL determines whether to modify a current license or to require the licensee to submit an application for a new license when any of the following changes occur:

1. A change to the name of the center;
2. A change to the applicable type of regulated service authorized as defined in the regulations;
3. When a currently open center completes renovations, adds rooms not previously a part of licensed space, etc.; or
4. A change to the center’s capacity.

5.19 Structure of Licensing Record

Licensing file materials are sorted into six sections. All items in the records should be two-hole punched and filed in the appropriate section. All materials in the record are to be grouped by topic in each section except for section 3. Place the documents in reverse chronological order with the most current on top. Items are listed in the order they should appear. Standards complaint investigations with codes, hotline reports, and investigation notes are placed in a separate file as determined by the supervisor. Post-it® notes are not to be in the files.

File items should be **grouped together** by topic in each section except for section three in reverse chronological order (present-past):

- | | |
|-----------|---|
| Section 1 | License/license action note/related non-confidential resource note |
| Section 2 | File review forms; completed applications; if providing food, current two-week menu |
| Section 3 | Agreement of understanding (on top); enforcement actions; standards complaints; and IA case form stating an IA case exists for this facility, if applicable |

Section 4 Current state business license; current fire marshal approval; current liability insurance documentation; LLC or corporation documentation, if applicable; opening documentation including: plan review materials (narrative, diagram, emergency plan); OCCL approval letter; business plan, excluding financial documentation; lease; zoning approval; Certificate of Occupancy; lead risk assessment & abatement documentation, if applicable; original facility measurements; Food Establishment permit, if applicable, and water analysis, if applicable

Section 5 Variance; parent handbook; employee handbook; and correspondence

Section 6 Corrective action plan/compliance review

Confidential: Keep the following forms in a manila confidential folder inside the file:

- Applicant's/owner's adult abuse registry check, service letters, and references
- Email between agencies or licensee/staff
- Criminal history reports
- Financial documentation from business plan
- Tickler
- Staff file checklist (keep three years' worth)
- Accident/Injury forms (organized with a cover sheet)
- Institutional Abuse complaints and affidavits

6. Child Placing Agency (CPA) Licensing Procedures

6.1 Inquiries

Support staff directs persons interested in owning or operating these types of facilities to the intake specialist regarding the application process. The specialist collects the inquirer's information, including name, race, gender, address, and phone number, and enters it into FACTS as an inquiry. The specialist emails the inquirer's information to the supervisor. The supervisor assigns a specialist to contact the inquirer and arrange an orientation that explains the licensing and application process, and the regulations.

6.2 Initial Application Phase

An inquiry becomes an application when the agency or organization submits a completed "CPA Application" with the names and addresses of three references and a "Release of Employment History" form. Applicants must notarize and sign the applications. The chief administrator can sign if he or she is the applicant. The supervisor assigns a specialist to the applicant within five business days of the receipt of the application.

The support staff copies the first page of the initial application and the reference page, removes the service letters and Release of Employment for mailing, and conducts an adult abuse registry check on the applicant. Support staff sends the references a "CPA-Reference Sheet."

- After 15 business days, support staff calls any person or organization who has not returned the service letter with a reminder that completion of this paperwork is required by state law. Support staff calls the applicant, reports any references who have failed to return the form, and asks the applicant to contact them or to provide new references.
- After 10 additional business days, if no service letter has been received, support staff contacts the applicant/owner to obtain two additional references.
- Once all information is received, support staff delivers the packet to the assigned specialist.

6.3 Document Review

As a part of the licensing study, the specialist verifies and reviews the following information:

- Business plan
- Documentation of Administrator qualifications and other required staff;
- Applicant's references;
- Applicant's service letters;
- Criminal background results and eligibility determination (only required for applicant's with direct access to children) ;
- Zoning approval;
- Articles of incorporation;
- Latest audit;
- Proof of business office in Delaware;
- City of Dover business license (if applicable);
- Delaware business license (unless non-profit) (address must match business'); and
- Procedure manual that is in accordance with the regulations.

6.4 Pre-Licensing Visit

Once this information is reviewed, the specialist continues the licensing study by scheduling and conducting a compliance review to check staff files and ensure the office is located in Delaware within 10 business days, unless the applicant wants a later date.

6.5 Initial-Provisional License

Upon completion of a pre-licensing visit, the specialist recommends a six-month initial-provisional license be issued and places the compliance review and application in the appropriate location as determined by the supervisor for review and/or approval within five business days. Upon approval, the supervisor gives these materials to the specialist to issue a six-month initial-provisional license. The specialist returns the materials along with the printed license to the supervisor for approval. The supervisor gives the documentation to support staff to create the licensing record and to mail the license within five business days.

6.6 Four-Month Review

The specialist conducts an announced full compliance review at least 60 days before the initial-provisional license's expiration to verify that the licensee complies with all of the regulations that could not be observed before the facility's operation. The specialist records the results of this compliance review visit in FACTS within five business days of the visit. The specialist reviews the FACTS people screen to ensure all staff employed and persons involved at the facility are listed as active and those no longer involved or employed are listed as inactive. The specialist also updates the resource screen, regulated services, and financial arrangements.

If full compliance is met, the specialist issues an annual CPA license from the initial-provisional license's expiration date for the following six months.

If full compliance is not met, the specialist issues a provisional license to allow time for corrective action to occur. **CPAs that receive IVE funds cannot be issued a provisional license without supervisor approval.**

The application, compliance review, and license are placed in the supervisor's office for approval. Upon approval, the supervisor provides these materials to support staff who creates the licensing record and mails the license within five business days.

6.7 License Renewals

Approximately 90 days before the expiration date of the annual license, support staff sends a “Notice of License Expiration: Child Placing Agency” notifying the facility of the approaching expiration date of the license. The letter is accompanied by an application and materials relating to the application. Applicants must notarize and sign the applications. The chief administrator can sign if he or she is the applicant or if the applicant provides written authorization allowing him or her to sign. Specialists need to pay attention to the application to make sure the same applicant is listed each year. If there is a change, they must contact the applicant for clarification and, when necessary, send the application back to be revised to include the proper information.

The specialist schedules and conducts an announced visit no later than 60 days before license expiration to allow the facility enough time to be in full compliance with the regulations before the license’s expiration. The specialist and licensee sign the compliance review. The specialist records the findings of this visit into FACTS within five business days of the visit. The specialist reviews the FACTS people screen to ensure all staff employed and persons involved at the facility are listed as active and those no longer employed or involved are listed as inactive. The specialist also updates the resource view screen, regulated services, and financial arrangements.

State employees and CPAs with a state contract have staff members fingerprinted under the 1990 law, not the 1994 law; therefore, licensing specialists do not have access to the fingerprinting results. When conducting an annual review for a CPA, specialists must give the staffing sheet to their supervisor right after the visit, instead of waiting to submit with the file at the time of license renewal. If there are any issues, there will be time to fix them so the license can be issued in a timely manner.

6.8 Failure to Apply for Renewal of Annual License

If the licensee fails to return the completed application materials by the expiration date of the license, the specialist contacts the licensee informing him or her that the license has expired. **If a CPA receives IVE funds and fails to submit an application, the specialist discusses the situation with the supervisor immediately. The specialist does not close or fail to backdate a license for these programs without supervisory approval.**

For programs not receiving IVE funds that do not submit an application by the license expiration, the new license period shall begin effective on the date the completed application is received and date stamped by support staff.

If an application is not received by license expiration, the specialist sends a “Notice of Pending License Termination: No Application Submitted” to the licensee. A copy of this notice is placed in the licensing record. If the licensee fails to submit the application within the required time, the specialist closes the CPA in FACTS and mails a “Notice of License Termination” to the licensee. The staff member information in the FACTS people screen is inactivated. The specialist places the closed licensing record in the area designated for closed files.

6.9 Relocation

The licensee must report in writing or by direct voice contact to OCCL at least 90 days in advance of a change of address for the facility. The specialist sends a relocation application to the licensee, since a new license is required at the new address before providing services. Once the licensee has submitted a relocation application to OCCL, the assigned specialist conducts a thorough investigation by reviewing the following information to determine suitability of the new location and any new staff:

As with any new facility, the specialist also confirms:

- Zoning approval;

- Certificate of Occupancy/Use;
- City of Dover business license (if applicable);
- Delaware business license; and
- Certificate of liability insurance with new address.

Any non-compliance cited results in the issuance of a provisional license and a corrective action plan being developed. All non-compliance must be corrected before an annual license is issued for the new location. The specialist changes the address in FACTS before issuing the new license. A six-month visit is not required for a relocation.

6.10 Structure of Licensing Record

Licensing file materials are sorted into six sections. All items in the records should be two-hole punched and filed in the appropriate section. All materials in the record are to be grouped by topic in each section except for section 3. Place the documents in reverse chronological order with the most current on top. Items are listed in the order they should appear. Standards complaint investigations with codes, hotline reports, and investigation notes are placed in a separate file as determined by the supervisor. Post-it® notes are not to be in the files.

File items should be **grouped together** by topic in each section except for section three in reverse chronological order (present-past):

Section 1	License
Section 2	File review forms; completed applications
Section 3	Agreement of understanding; enforcement actions; standards complaints; and IA case form stating an IA case exists for this facility, if applicable
Section 4	Current liability insurance; opening documentation including administrator qualifications, zoning approval, articles of incorporation papers, and proof of business office in Delaware
Section 5	Variance; correspondence
Section 6	Corrective action plan/compliance reviews
Confidential:	Keep the following forms in a manila confidential folder inside the file: <ul style="list-style-type: none"> • Applicant's service letters, references, and adult abuse registry check • Current financial audit • Email between agencies • Criminal history reports • Staff qualifications • Staff file checklist (keep three years' worth) • Children's file checklist (keep three years' worth) • Accident/Injury forms (organized with a cover sheet) • Institutional Abuse complaints and affidavits

Internal investigations conducted by a CPA are to be kept in a folder in a shared filing cabinet.

7. Residential Child Care and Day Treatment (RCC and DT) Procedures

7.1 Inquiries

Support staff directs persons interested in owning or operating these types of facilities to the intake specialist regarding the application process. The specialist collects the inquirer's information, including name, race, gender, address, and phone number. The specialist emails the inquirer's information to the support staff to enter the information into FACTS as an inquiry. The specialist also emails the information to the supervisor. The supervisor assigns a specialist to contact the inquirer and arrange an orientation that explains the licensing and application process, and the regulations.

7.2 Initial Application Phase

An inquiry becomes an application when the agency or organization submits a completed "RCC and DT Application" with the names and addresses of three references, business plan, and a Release of Employment History. Applicants must notarize and sign the applications. The chief administrator can sign if he or she is the applicant. The supervisor assigns a specialist to the applicant within five business days of the receipt of application.

The support staff copies the first page of the initial application and the reference page, removes the service letters and Release of Employment for mailing, and conducts an applicant's adult abuse registry check. Support staff sends the references a "RCC-Reference Sheet."

- After 15 business days, support staff calls any person or organization who has not returned the service letter with a reminder that completion of this paperwork is required by state law. Support staff calls the applicant, reports any references who have failed to return the form, and asks the applicant to contact them or to provide new references.
- After 10 additional business days, if no service letter has been received, support staff contacts the applicant/owner to obtain two additional references.
- Once all information is received, support staff delivers the packet to the assigned specialist.

7.3 Document Review

As part of the licensing study, the specialist verifies and reviews the following information:

- Business plan;
- Documentation of a qualified administrator and staff required per regulations;
- Release of Employment History/Service letters for applicant;
- Applicant's References;
- Criminal Background verifications and eligibility determination (only required for applicant's with direct access to children);
- Suitable Adult Abuse Registry check;
- Procedure manual that is in accordance with the requirements;
- Staff and parent handbooks;
- Program outline;
- Floor plans;
- OCCL Plan Review narrative (this written description should include the sub-titles located in Chapter 3, Physical Plant, of *DELACARE Requirements*);
- Zoning approval;
- OCCL Plan Review Approval;
- Fire marshal approval;
- City of Dover business license (if applicable);
- Lead paint inspection (if building was built before 1978);

- DNREC Approval (septic-only);
- Delaware business license (unless non-profit) (address must match business');
- Proof of incorporation;
- Office of Drinking Water approval (if using well water);
- Food Establishment Permit, if applicable; and
- Certificate of Occupancy.

The specialist contacts the applicant and instructs them to contact the fire marshal to complete the necessary actions required. The specialist then checks the Plan Review narrative to verify it contains all of the required correct information. The specialist confers with the supervisor to see if a food establishment permit is needed. If one is required, the specialist contacts the applicant and instructs him or her to contact Public Health to learn about and obtain a food establishment permit. Residential, Day Treatment, and/or Parenting Adolescent Programs or Facilities should include the Physical Plant Requirements from those chapters of *DELACARE* as well. If information is missing or incorrect, the specialist contacts the applicant to request the missing or correct information. Once the narrative is complete, the specialist completes a "Request for OCCL Plan Review" form and submits the business plan, floor plan, OCCL Plan Review narrative, and the completed request form to the supervisor within five business days of receiving the initial license application. The supervisor approves or denies the plan and, if approved, issues the "Certificate of Approval" within five business days.

7.4 Pre-Licensing Visit

Once the above information is received and approved, the specialist continues the licensing study by scheduling and conducting a pre-licensing visit within 30 days.

For this pre-licensing visit, the specialist completes a full compliance record form noting items requiring correction. The specialist crosses out the compliance code for NC and writes the words "needs correction." For example, rather than Non-compliance =NC, Needs Correction =NC will be written. This is signed by the specialist and applicant. Since the applicant is not licensed, any required corrections are noted in the notes/recommendations section of the compliance form, but are not marked non-compliant in FACTS. Technical assistance is provided. All items listed must be corrected and noted as corrected in the FACTS notes/recommendations section before an initial-provisional license is issued.

The specialist enters the findings of this review into FACTS within five business days of the visit. The specialist also updates the resource screen by entering the age range accepted, the opening and closing times, and the maximum capacity. The specialist updates the FACTS people screen to include any staff involved in the facility. The measurements of the facility's space are taken using the "Guidelines for Measuring Child Care Facilities" and recorded into FACTS in the notes/recommendation section of the facility visit. For residential facilities, the capacity on the license will reflect the number of children the bedroom space allows. A resource note will be made that lists the number of children who can attend the day treatment program if that program exists within the residential facility.

7.5 Initial-Provisional License

Upon completion of a pre-licensing visit, the specialist recommends a six-month initial-provisional license be issued and places the compliance review, application, and related documents in the appropriate location as determined by the supervisor for review and/or approval within five business days. Upon approval, the supervisor gives these materials to the specialist to issue the license. The specialist returns the materials along with the printed six-month initial-provisional license to the supervisor for approval. The supervisor gives the documentation to support staff to create the licensing record and to mail the license within five business days.

7.6 Sixty-Day Follow-Up Visit

The specialist conducts a follow-up unannounced visit within 60 days of the facility's opening to determine compliance with regulations that were marked Not Determined (N/D) before its operation, such as interactions with children and accuracy

of child and staff files. The primary purpose of this visit is to provide technical assistance although noted non-compliance items will be cited.

The specialist enters the findings of this review into FACTS within five business days of the visit. The initial-provisional license remains in effect and unchanged.

7.7 Six-Month Review

The specialist schedules and conducts an announced full compliance review at least 30 days before the initial-provisional license's expiration. The specialist records the results of this compliance review in FACTS within five business days of the visit. The specialist also updates the people screen, resource screen, regulated services, and financial arrangements. The application, compliance review, and license are placed in the supervisor's office for approval. Upon approval, the supervisor provides these materials to the support staff who creates the licensing record and mails the license.

7.8 License Renewals

Approximately 90 days before the expiration date of the annual license, support staff sends a "Notice of License Expiration: RCCF or DTP" notifying the facility of the approaching expiration date of the License. The letter is accompanied by an application and materials relating to the application. Applicants must notarize and sign the applications. The chief administrator can sign if he or she is the applicant or if the applicant provides written authorization allowing him or her to sign. Specialists need to pay attention to the application to make sure the same applicant is listed each year. If there is a change, they must contact the applicant for clarification and, when necessary, send the application back to be revised to include the proper information.

An annual full compliance review will be conducted no later than 30 days before license expiration to allow the facility enough time to be in full compliance before license expiration.

State employees and RCCs with a state contract have staff members fingerprinted under the 1990 law, not the 1994 law; therefore, licensing specialists do not have access to the fingerprinting results. When conducting an annual review for a RCC, specialists must give the staffing sheet to their supervisor right after the visit, instead of waiting to submit with the file at the time of license renewal. If there are any issues, there will be time to fix them so the license can be issued in a timely manner. Educational liaisons and teachers must have complete files. These records may be housed by the State.

7.9 Failure to Apply for Renewal of Annual License

If the licensee fails to return the completed application materials by the expiration date of the license, the specialist contacts the licensee informing him or her that the license has expired. **If a RCC receives IVE funds and fails to submit an application, the specialist discusses the situation with the supervisor immediately. The specialist does not close or fail to backdate a license for these programs without supervisory approval.**

Should the licensee present a completed application within five business days of the expiration, a new license shall be issued without a lapse in licensure. If the application is received more than five business days after expiration, the new license period shall begin effective on the date the completed application is received and date stamped by support staff.

If an application is not received by the fifth business day after the license expires, the specialist sends a "Notice of Pending License Termination: No Application Submitted" to the licensee. A copy of this notice is placed in the licensing record. If the licensee fails to submit the application within the required time, the specialist closes the facility in FACTS and mails a "Notice of License Termination" to the licensee. The staff members' information in the FACTS people screen is inactivated. The specialist places the closed licensing record in the area designated for closed files.

7.10 Relocation

The licensee must report in writing or by direct voice contact to OCCL at least 90 days in advance of a change of address for the facility. The specialist sends a relocation application and plan review guidelines to the licensee, since a new license is required at the new address before providing child care services. Once the licensee has submitted a relocation application to OCCL, the assigned specialist conducts a thorough investigation by conducting a pre-licensing visit and reviews the following information to determine suitability of the new location and any new staff:

As with any new facility, the specialist also confirms:

- Zoning approval;
- Certificate of Occupancy/Use (from zoning);
- Fire marshal approval;
- City of Dover business license (if applicable);
- OCCL Plan Review Approval;
- Delaware business license;
- Lead paint inspection (if building was built before 1978);
- DNREC approval (if applicable)
- Office of Drinking Water (if using well water); and
- Certificate of liability insurance with new address.

Any non-compliance cited results in the issuance of a provisional license and a corrective action plan being developed. All non-compliance must be corrected before an annual license is issued for the new location. The specialist notifies POC, the fire marshal, and CACFP of the licensee's move. The specialist changes the address in FACTS before issuing the new license. A six-month visit is not required for a relocation.

7.11 Structure of Licensing Record

Licensing file materials are sorted into six sections. All items in the records should be two-hole punched and filed in the appropriate section. All materials in the record are to be grouped by topic in each section except for section 3. Place the documents in reverse chronological order with the most current on top. Items are listed in the order they should appear. Standards complaint investigations with codes, hotline reports, and investigation notes are placed in a separate file as determined by the supervisor. Post-it® notes are not to be in the files.

File items should be **grouped together** by topic in each section except for section three in reverse chronological order (present-past):

Section 1	License
Section 2	File review forms; completed applications
Section 3	Agreement of understanding; enforcement actions; standards complaints; and IA case form stating an IA case exists for this facility, if applicable
Section 4	Current fire marshal approval; current liability insurance; opening documentation including: fire marshal approval, zoning approval, Certificate of Occupancy, and original facility measurements; Food Establishment permit, if applicable; and water analysis, if applicable
Section 5	Variance; correspondence
Section 6	Corrective action plan/compliance review
Confidential:	Keep the following forms in a manila confidential folder inside the file:

- Applicant's service letters, references, and adult abuse registry check
- Email between agencies
- Criminal history reports
- Staff file checklist (keep three years' worth)
- Children's file checklist (keep current year)
- Accident/Injury forms (organized with a cover sheet)
- Institutional Abuse complaints and affidavits

8. Applications that Fail to Become Licenses

8.1 Application Not Considered

An application submitted by any person, agency, organization, corporation, etc., who has had a license revoked or denied by OCCL within three years of the date of the new application, will not be considered for licensure. The applicant must be informed that an application will not be considered until the expiration of this three-year period.

Applications submitted by any person, agency, organization, corporation, etc., who currently has a facility on the enforcement action of warning of probation, probation, or suspension will not be considered until the enforcement has been lifted.

8.2 Withdrawal of Application

Withdrawal of an application is the process by which an applicant terminates the application phase before issuance of a license. Only the applicant can withdraw his/her application. An initial or renewal application may be withdrawn orally or in writing.

If the specialist knows an application for licensure will be denied by OCCL, the specialist recommends the applicant withdraw the application. The specialist will clearly explain the reasons why the application would be denied. The specialist advises the applicant of the right to continue the process and to appeal the application denial (see Sections 14.16-14.19).

Specialists use the following procedures when an application is withdrawn:

- Confirm in writing to the applicant using the "Application Withdrawal Confirmation" letter that his/her application has been withdrawn and state the withdrawal does not affect his/her right to reapply at a later time;
- Record in the license record the events leading to the withdrawal and close the record by placing the file in the designated filing cabinet;
- Close the applicant's application in FACTS by choosing the withdrawal option; and
- Do not return the application to the applicant unless requested. If a request is made, retain a copy of the application in the license record.

8.3 Failure to Pursue

Failure to pursue means there has been no activity or effort after six months of filing the application to complete the application process. At the conclusion of the six-month period, the specialist sends a "Failure to Pursue" letter by certified mail/return receipt requested to the applicant. The letter should include the following information:

- Notification that the application cannot be acted on because the applicant has not provided any new information or made any substantial progress on the application checklist within the last six months;

- A requirement for the applicant to contact the specialist within 10 business days if he or she would like to proceed and if contact is not made the application will be closed;
- A reference to the appropriate statutory requirement for licensure and a reminder there is a penalty for operating such a facility without a license.

If the applicant fails to contact the specialist within 10 business days of receipt of the letter, the specialist closes the application in FACTS. The application is to be closed and placed in the designated filing cabinet. Phone calls are not required.

8.4 Expired Applications

Every application will be active/open for one year. If an applicant has been actively pursuing completion of their new license application but cannot complete the process within one year, the application expires. The application will remain open in FACTS, but a new Initial Application must be notarized and completed after one year to continue the licensure process.

9. General License Information

9.1 License Information

The license must state the following information:

- Type of license;
- Name of the facility;
- Address of the facility;
- Maximum number of children to be served at any time (this is indicated by Level I or Level II listed under regulated services for FCCH licenses);
- License number;
- Facility type and any other regulated service provided;
- Date of issuance; and
- Date of expiration.

An annual license, which is issued following a provisional license, must list the expiration date as one year after the last annual license's expiration date. All issuance decisions are to be recorded in FACTS. The licensing record along with the license is to be placed by the specialist into the supervisor's office for review.

9.2 Initial License Issued

The initial license issued to all licensees must be an initial-provisional license. The initial-provisional license must be issued for the first six months of the licensing period. At the time of the initial-provisional license issuance, OCCL is not able to conduct a review of all the regulations because the facility is not yet in operation. Before the expiration of an initial-provisional license, the specialist must revisit the facility. The portions of the compliance review that could not be completed before the facility's operation are to be reviewed.

The specialist enters the required information into FACTS and places the application and related materials in the supervisor's office for approval. The supervisor approves the license after:

- Reviewing the compliance record and accompanying documentation/reports and verified the information was recorded correctly into FACTS; and
- Consulting with the specialist making the recommendation, when appropriate.

Once approved the specialist prints the license and places it in the supervisor's office to be initialed as approved. The division director signature automatically appears on the printed license.

9.3 Lost/Damaged Licenses or Errors on Licenses

In situations in which a license is lost/damaged or a typographical error was made, the specialist issues another with the supervisor's approval. Documentation of the issuance of a duplicate license must be made in the FACTS license action screen if the license was previously mailed to the licensee.

9.4 Separate License

If a person or agency operates more than one facility, a separate application must be submitted for each facility site location. In other words, a license to operate a facility in one location may not also apply to the operation of a facility in a different location. The issuance of each license will be the result of separate applications and compliance reviews. Materials that are similar in each plan of operation may be duplicated for each facility record.

9.5 Licensing of Integral Facilities

OCCL may issue a single license for a separate building, which might otherwise require a separate license, if all of the following requirements are met:

- Separate buildings or portions of the facility are integral components of a single program;
- All components of the program are managed by the same licensee; and
- All components of the program are located at the same site address.

9.6 Provisional License

A provisional license may be issued for up to three months to allow time for a facility to comply with applicable regulations. Additional provisional licenses may be issued only upon prior approval of OCCL's administrator. The specialist completes a "Request for Additional Provisional" form. When the third provisional license is sent, the specialist includes a statement in the corrective action plan informing the licensee that compliance is expected by the time this license expires. If compliance is not achieved, an enforcement action may be initiated or no other license will be issued until compliance is achieved. Before issuing a provisional license for a CPA or RCC facility, the specialist discusses the situation with the supervisor and receives approval.

9.7 Criteria for Provisional License Issuance

A provisional license is issued to a licensee after the receipt of an application and the completion of a compliance review where full compliance has not been demonstrated. Compliance with the regulations is usually determined by a regulation-by-regulation evaluation.

A provisional license must be issued only with the condition that the regulations will be met within a specified period. A provisional license must not be issued until a corrective action plan has been agreed upon by OCCL and the licensee. The corrective action plan must be written and issued by OCCL.

The following items should be considered in determining the amount of time given for a provisional license:

- The degree of non-compliance or the gap between the existing situation and compliance;
- The degree of willingness to comply demonstrated by the applicant or licensee;
- The reason for the temporary inability to comply;
- The adequacy of the plan for coming into compliance; and

- The amount of time needed for compliance.

A provisional license must not be recommended in the following situations:

- When serious violations of health, fire, safety or building requirements exist and are not correctable;
- When the applicant or licensee refuses or is clearly unable to comply (and does not request a variance); or
- When the facility has failed to take action to correct areas of non-compliance for an unreasonable length of time.

If one or more of the items listed above exist, consideration must be given to recommending denial or revocation (see Sections 14.16-14.159).

9.8 Monitoring a Provisional License

Under the terms of a provisional license, the specialist monitors the progress of the facility in complying with the non-compliance listed in the corrective action plan. If it appears evident the licensee will be unable to qualify for an annual license, the specialist must evaluate the situation with a supervisor to determine a course of action. The corrective action taken by the facility is to be recorded in FACTS and printed for the licensing record by the specialist.

9.9 Monitoring an Annual License

Under the terms of an annual license, the specialist monitors the facility for continued compliance with all regulations by conducting at least one annual on-site visit per year. These annual visits are announced for CPAs, and RCCs. These visits are unannounced for FCCHs, LFCCHs, and centers. Additional visits are conducted when deemed necessary and appropriate.

9.10 Early Compliance

A provisional license may be replaced with an annual license after the corrective action plan is completed by the licensee and approved by OCCL in advance of the expiration date of the provisional license. The issuance date on the annual license must be the date the facility corrected all non-compliance. The expiration date of the annual license will be one year from the issuance date of the first provisional license. (Example: The provisional license was issued on April 1, 2017. The corrective action was completed on May 15, 2017. The annual license is issued May 15, 2017 - March 31, 2018).

9.11 License Extension

An extension of a license is the procedure by which the period of an annual license is lengthened by an additional month. Extensions beyond one month must be approved by the supervisor. The purpose of an extension is to allow a facility to continue to operate, without penalty, when the specialist is unable to complete the evaluation for license renewal.

A license extension may be granted only in the following circumstances:

- The fire inspection required for renewal could not be completed before license expiration; or
- The specialist could not complete evaluation due to circumstances beyond the control of the specialist or the facility; or
- A complaint investigation is in progress.

Specialists use the following procedures when issuing an extension of a license:

- Inform the supervisor of the reasons for a license extension;

- Make reasonably sure the facility is in a safe condition before making the request;
- Record the reason for a license extension in the licensing and FACTS records;
- When approval is given, inform the facility the license will be extended;
- Explain the reasons for the extension and indicate to the facility this is **not** a negative licensing action; and
- Prepare the license with an appropriate effective date to ensure the facility has continuous licensure. The period of this license is for a month, and the expiration date of the license must reflect this period. The word “extension” must be printed in the license type section of the license.

9.12 License Modification

Modification is the procedure by which certain terms of the license may be changed during the effective dates of the license without requiring an application. A license may be modified to change:

- The name of the facility (unless the name of the facility is changed because ownership or sponsorship has changed); or
- Capacity.

Modification may not be used to change sponsorship or ownership, location, or a substantial change in services and/or population served (if such change pertains to a licensed service). The license expires automatically in these situations and an application for a new license must be submitted.

Specialists use the following procedures for modification of a license:

- Ensure the facility has submitted a written request to have the license modified. A plan review narrative and floor plans/blueprints are required for a change in a center or residential facility’s capacity. The request must be made in writing because it is a request for a legal change to the license. OCCL has 30 days in which to make a written decision;
- Evaluate the request for modification. An on-site visit, where room measurements are recorded, is necessary to change a center’s, FCCH’s, or RCC’s capacity;
- Instruct the licensee to obtain fire marshal approval to increase the capacity;
- Recommend to approve or deny the request to the supervisor; and
- If the request for modification is denied, notify the facility in writing, informing the licensee of the basis for the decision. The letter must be signed by the administrator; and
- If the request for modification is approved, issue another license containing the modification. The expiration date remains the same as on the previous license. For name changes, the date of issuance is the date the licensee requested the modification. For capacity changes, the date of issuance is the date the specialist measures and approves the new space. Documentation of the modification must be maintained in the licensing and FACTS records.

9.13 Changes Requiring a New License

- Owner/Sponsorship;
- Location or address;
- Significant aspects of the program; or
- Regulated service.

Licenses are issued to a specific owner and location. If these change, the license becomes invalid.

9.14 Procedures for Sale of Facility (formerly known as Transfer of Ownership)

When the licensee for a facility is to be changed, the initial licensing procedures for that facility type (see sections 4-7)

are used by the specialist. In addition to the initial licensing procedures, the specialist uses the following specific procedures for changing the licensee:

- The current licensee for the facility contacts the specialist to inform him or her of the change in licensee;
- Prospective applicant contacts the specialist to indicate the intent to be the new licensee for the facility;
- The specialist informs the applicant of the application process and of the requirement to attend the applicable orientation (Attendance at the information session and orientation may be waived based on the licensing history for applicants owning another site);
- The specialist informs the applicant that written approvals, as appropriate, are required for fire safety and zoning. These can be obtained from the current licensee if they are still valid. The original diagrams and prior approvals should be transferred to the new licensing record upon the supervisor's approval. The specialist emails the fire marshal to verify the approval is still valid;
- Before the date of the sale, at a minimum, the owner and administrator need to be fingerprinted for the new site. The other staff members need to have appointments scheduled for fingerprinting.
- The specialist contacts the current licensee and the applicant and explains that a letter is needed from each confirming the change in licensee. The letter must also state the potential date and time of the sale of the facility;
- The specialist sets a date for the on-site compliance review. If possible, the review should take place on the day of the actual change;
- If non-compliance is cited, a corrective action plan will be created with a maximum of 30 days for completion and the non-compliance will be entered into the notes section of facility visit; If the non-compliance is not corrected within 30 days, the non-compliance will be cited under the new owner's license.
- If a major health or safety violation is found during the pre-licensing visit, a license will not be issued until it is corrected.
- The specialist will add a resource note in FACTS that states, "This site was formerly known as ABC Center. On June 20, 2017, the center was sold and reopened under the name XYZ Center."; and
- The new owner will be issued an initial-provisional license based on the date the facility was sold; three reviews (60 days, six months, and annual) will be conducted during the first year of licensure.
- When ownership is changing because there will be less owners of a center, a new application with the updated name of the owners is needed. A facility visit, plan review, etc. are unnecessary.
- If the members of an LLC change, this is considered a new owner. The license will be closed and a new license created.

10. Licensed Capacity

10.1 Introduction

Licensed capacity is the maximum number of children that may be served at any one time. A facility's capacity will be determined during the pre-licensing visit after measurements are taken by the assigned specialist and the following items are considered:

- Requirements of state and local fire codes;
- The licensee's ability to comply with applicable law and *DELACARE*;
- Any child preschool-age or younger or home-schooled household members, including, but not limited to, persons under guardianship who reside at the facility and their individual needs;
- Physical features of the facility, including available living and program space that are necessary for compliance with regulations; and
- Current regulations for the facility regarding the number of sinks and toilets.

10.2 Capacity Less Than Requested

When the license is issued for fewer children than requested, the applicants or licensees must be notified in writing of the reasons for the limitation and of their rights to request a conference (see section 13). OCCL may issue a license for a capacity lower than requested if the facility does not meet the physical plant regulations for the capacity requested, i.e. square footage, number of sinks and toilets.

10.3 Increasing Capacity

A licensed facility wishing to expand its capacity is required to submit an OCCL Plan Review narrative, blue prints/floor plans, and a letter stating the facility's intent to increase capacity.

Upon receipt of the information, the specialist completes a "Request for OCCL Plan Review" and submits this along with OCCL's Plan Review Narrative and floor plan to the supervisor. The specialist instructs the licensee to contact the fire marshal.

Once OCCL receives the fire marshal approval, the specialist arranges a visit of the facility within 10 business days. At this visit, the specialist measures the new space using the "Guidelines for Measuring Child Care Facilities" to determine the facility's new capacity. The specialist changes the capacity in FACTS and prints a new license that reflects the new capacity. After approval by the supervisor, support staff copies the license for the licensing record and mails the license within five business days.

A facility operating on an enforcement action will not be approved for an increase of capacity. The facility may request a conference to discuss the matter with OCCL (see section 13).

10.4 Decreases in Existing Capacity

OCCL may decrease existing licensed capacity when there is a change in any of the factors cited above in section 10.1. A decrease may also be the result of an enforcement action.

If the licensee does not comply with the decrease in capacity, OCCL may initiate revocation or denial of the license application (see Sections 14.16-14.19).

11. Administrative Actions (Agreement of Understanding and Variance Request)

11.1 Introduction

Administrative action is the term applied to an action or group of actions initiated by OCCL regarding an applicant or licensee. Agreements of understanding (AOU) and granting or denying variance requests are administrative actions available to OCCL. These serve to correct a facility's repeated or serious non-compliance, to put the facility on notice, to provide the opportunity for technical assistance, or to allow a facility another way to meet the intent of a regulation.

11.2 Agreement of Understanding (AOU)

When it is necessary to confirm the content of a corrective action plan, to allow a licensee in danger of license revocation or denial to continue to operate, or to create a Provision of Dual Service for Foster Care, an AOU is made between OCCL and the licensee. If a FACTS tickler's case shows the FCCH or LFCCH provider or household member as the perpetrator, the license may be suspended or an AOU may be created to ensure the perpetrator is not in the home during child care hours.

11.3 Essential Elements of an Agreement of Understanding (AOU)

- An AOU can be a part of an administrative action, part of a corrective action plan, or used when a formal

agreement is deemed necessary between the licensee and OCCL. The agreement is a formal document, which is reviewed by OCCL's administrator before being signed by all the involved parties.

- The purpose of the agreement is to clearly explain and memorialize the actions a licensee must take in order to maintain licensure. Specifically, the agreement states the reasons for the need of the agreement (e.g. history of continued non-compliance, over-capacity or an incident of serious non-compliance such as abuse of a child in care by a staff member), the corrective action to be taken by the licensee, any additional requirements or expectations required by OCCL to ensure compliance, the role of OCCL (i.e. increased supervision), and the action OCCL will take if the licensee fails to comply with the provisions of the agreement.
- An AOU may require the licensee to meet conditions beyond those of the regulations. The licensee and OCCL may negotiate to determine which conditions will lead the licensee towards continual compliance. The conditions often include requiring completion of additional training, hiring a consultant, or reduction of capacity or operating hours. The conditions are driven by the specific situation in the facility. The licensee must agree to the conditions in order to move forward with the agreement. Should the licensee and OCCL not reach agreement, OCCL may move forward with other enforcement actions.
- The AOU requires the signature of all parties. OCCL staff will sign the document before it is presented to the licensee.
- All AOU's regarding household members that were deemed prohibited or ineligible due to his/her criminal history are to be placed in the confidential file.
- When an individual is deemed prohibited or ineligible due to his/her criminal history, an AOU specifically outlines the reasons the person is prohibited from being at the facility. This is to be signed by the provider and OCCL.
- Parents will be notified of the AOU by placing the reason for the AOU at the top of the parent notification sign off sheet.
- On a case-by-case basis, OCCL will determine if the parents need to be notified of AOU's that involve pending charges. OCCL will consider the seriousness of the charges and the provider's history when making this determination.
- For example, John Jones cannot be at the family child care home during child care hours due to pending charges or due to charges.
- The parent notification sheet must be signed by parents and returned to OCCL within 10 business days.
- Specialists may conduct increased visits for facilities that have an AOU, but extra visits are not required.
- If a licensee fails to sign an AOU, OCCL may amend the AOU or move to an enforcement action.
- The provider will be required to notify OCCL within five days of the resolution of the charges.

11.4 Procedures for Issuing an Agreement of Understanding (AOU)

Once the specialist and supervisor have determined an AOU is necessary, the specialist makes a recommendation to OCCL's administrator.

If OCCL's administrator approves, the specialist prepares the agreement for review by the supervisor who then sends it to OCCL's administrator for final approval.

The agreement must contain, but is not limited to, the following information:

- Statements of background and reason for the agreement (Specialists must not list the exact charges of household members. Use the sentence "Fritz Smith" is not permitted to be in the home.");
- Statement that the licensee agrees to comply with the provisions of the agreement;
- Statements indicating the corrective action to be taken by the licensee under the agreement;
- Statement of any additional conditions which the licensee must comply with under the agreement;
- Statement that there must be continual compliance with *DELACARE*;
- Statement of the roles and responsibilities of OCCL under the agreement. The statement must specify that

- there may be increased monitoring and supervision of the licensee;
- Statement indicating OCCL will seek denial or revocation if the licensee fails to comply with the agreement or *DELACARE*; and
- Statement indicating a copy of the agreement must be signed by all individuals/agencies placing children in care of the facility, if appropriate to the situation.
- If the agreement is replacing a previous agreement, a statement such as “This AOU replaces the previous AOU,” is added at the beginning.

The AOU is then signed and dated by the respective parties, including OCCL’s administrator, supervisor, specialist, licensee, and deputy attorney general (when licensee’s attorney is involved) and, if applicable, copies given to the facility’s board of directors (governing body). The parent notification sheet that lists a brief statement regarding the need for the agreement is to be signed by parents and returned to OCCL within 10 business days.

The agreement must be recorded in the licensing and FACTS records immediately after approval. The specialist documents the AOU (AOU) on the Provider Resource screen in FACTS.

11.5 Procedures for Dual Service Agreement

Before a licensed Family Child Care Home or Large Family Child Care Home providing foster care services, a Dual Service Agreement must be entered into between the, the Child Placing Agency, and OCCL. When all parties agree to sign an AOU regarding the provision of dual service, the specialist makes a recommendation to OCCL’s administrator. If OCCL’s administrator approves, the specialist prepares the agreement for review by OCCL’s administrator. The specialist creates a new agreement annually with the provider to ensure foster care is still being provided and the requirements listed are known and notes this on the compliance form. The specialist is to note dual service in the contact information of the resource view screen and adds foster care as a special condition in FACTS. The specialist prints a new license that contains this special condition and places it in the supervisor’s office along with the agreement and licensing record for approval.

The agreement must contain statements regarding, but not limited to, the following information:

- The regulation related to Dual Service;
- The provider agrees to notify OCCL within 5 business days of any new foster child placed in the home or when a foster child is removed from the home;
- A statement that foster children will be considered as the provider’s own children living in the home for the purpose of OCCL, meaning that if the foster child is younger than school-age, the provider’s capacity for child care is reduced, whether the child is present or not;
- The provider agrees to limit child care hours to daytime hours Monday through Friday from 6:00 a.m. to 6:00 p.m. (unless the LFCCH is located in a commercial property and a qualified staff can operate the LFCCH after 6:00 p.m.);
- Overnight care of child care children may not be provided;
- Both the provider and the Child Placing Agency will consider the needs, behavior, and history of child care children and foster children and will not knowingly place any of the children at risk;
- The provider, Child Placing Agency, and/or OCCL agree to notify each other if a foster or child care child exhibits behavior which may cause children to be placed at risk (specialists should ask the CPA specifically about whether a child’s behavior is appropriate for a child care home);
- OCCL agrees to notify the Child Placing Agency of any complaints or non-compliance that meets the criteria listed in the immediate or potential threat sections in section 18.8 found at this home;
- The Child Placing Agency agrees to notify OCCL of any complaints or non-compliance found at this home; and
- The parties to this agreement will notify each other if either foster care or child care services cease to be provided at this home.

In rare cases, DFs may place non-relative children to live with a provider although the provider is not a foster parent. In these cases, the specialist will draft a dual service agreement with the provider, OCCL, and DFS, if appropriate.

Foster care children in FCCHs are household members. Dual service providers need to let specialists know as soon as children are placed. Once the specialist is notified, she checks FACTS to make sure there is no reason that the child cannot be in a FCCH. If there are concerns, she discusses the situation with her supervisor.

11.6 Regulation Variances

Upon the written request of an applicant or licensee, the Division may grant a variance from a regulation if the applicant or licensee has documented to the satisfaction of the Division that the intent of the specific regulation will be satisfactorily achieved in a manner other than that prescribed by the regulation and that the health, safety, or well-being of children in child care is not in serious or imminent danger or risk thereof.

The Division may require a licensee to provide notice of a variance request to the parent or guardian with children in the facility to offer them the opportunity to provide input on the variance request to the Division.

The Division will render its decision on the request for variance in writing, including the conditions and regulations for which the variance is granted, and will send a signed copy of the decision to the applicant or licensee. A copy of the decision will be maintained on file by the Division and the applicant or licensee.

The variance may be, at OCCL's discretion, time-limited or indefinite but will only remain in effect as long as the licensee continues to satisfactorily achieve the intent of the regulation, conditions of the variance, and maintain the health, safety, and well-being of children in child care. A permanent variance will become void if the facility changes ownership or control.

The Division will monitor the licensee's compliance with the variance. If the licensee fails to comply with the variance, the Division may initiate an enforcement action and the variance will be immediately cancelled.

11.7 Variance Request Procedures

The applicant or licensee initiates the variance request. The variance form is located on OCCL's website. The specialist may offer technical assistance to the applicant or licensee in the development of the request. The request must contain, at a minimum, the following information:

- Facility name and address and the name and address of the applicant or licensee;
- Identification of the specific regulation number and title for which the variance is requested;
- Reasons the variance is being requested;
- Alternative method proposed for meeting the intent of the regulation;
- Reason the variance should be granted;
- Possible adverse effect on children in care if variance is approved; and
- Time requested for variance.

11.8 Action on the Variance Request

The Resource and Development Administrator and OCCL administrator must review the request and issue a decision within 10 business days of receipt of the specialist's report with the approval of the deputy attorney general of the terms/conditions of the variance, if deemed applicable by OCCL's administrator. Time-limited variance requests can be approved by OCCL's administrator. A request for a permanent variance must also be approved by the division director.

If the variance is denied, OCCL informs the applicant or licensee in writing of this decision, the reasons for the decision and any details related to it. If a variance is granted, a signed written agreement is made between the Division and the facility. This agreement must specify the duration of the variance and the terms and conditions under which the variance is granted.

11.9 Denied Variance Request

If a request for a variance is denied and the applicant or licensee disagrees with the decision, the applicant or licensee may request a conference. The specialist sends a "Notice of Conference."

11.10 Provisions of the Variance

If a variance is granted, it must contain provisions for at least an annual review by the specialist. If the applicant or licensee fails to comply with a variance agreement, the agreement will be subject to immediate cancellation.

12. Non-Compliance

12.1 Introduction

Non-compliance is the failure on the part of a licensee to demonstrate conformity or adherence to a regulation. Non-compliance is determined using one or more of the following methods as appropriate:

- Direct observations;
- Interviews;
- Review of documentation/records provided by the licensee; and/or
- Reports from families, other agencies, or other community members.

12.2 Documenting a Corrective Action Plan for Non-Compliance

When it is determined, that a facility is non-compliant with a regulation during a compliance review or enforcement visit, the specialist uses the following procedures:

- Informs the licensee or designee of the specific regulation that is non-compliant and how the determination was made;
- If non-compliance can be easily corrected, the licensee or designee is required to do so immediately;
- Advises the licensee or designee of actions required to correct the non-compliance and the specific time by which compliance is required for each citation by developing a corrective action plan with the licensee or designee during the visit;
- Determines the date of correction to be at least one week before license expiration so that corrective action can be received and processed before license expiration;
- Confirms in writing any such notification given orally by providing the licensee or designee with a copy of the compliance record at the time of the visit that includes the corrective action plan;
- After the specialist returns to the office, she enters the non-compliance into FACTS within five business days and ensures the corrective action is received before issuing an annual license. Specialists must use the proper format when entering non-compliance into FACTS. For example, "Three staff members were missing health appraisals." Specialists must mark an item corrected when all of the information was received. For example, when waiting for three health appraisals, it will be marked compliant once all three are submitted;
- The FACTS compliance review form is to be printed and added to the licensing record once all of the corrections have been made or the date of correction may be marked on the compliance review form using a different color ink than the one used during the review; and
- If the specialist notes non-compliance after the visit was completed and signed by the provider, the

specialist prepares a Part B form that lists the additional non-compliance and mails it to the provider for signature. Documented email acceptance of the non-compliance is satisfactory. The specialist adds the additional non-compliance into FACTS under the facility visit.

A determination of continued non-compliance may lead to one or more courses of action including:

- Offering technical assistance;
- Requiring training that addresses the non-compliance issues;
- Extending the time for correction;
- Arranging for a conference with the supervisor, specialist, and licensee;
- Discussing the possibility of a variance, if applicable;
- Recommending warning of probation or probation; or
- Recommending revocation or denial.

The specialist makes a recommendation to the supervisor for the appropriate course of action, based on the individual circumstances surrounding the non-compliance. The specialist must describe the circumstances; indicate the seriousness of the non-compliance, the time and expense needed to correct it, and the receptiveness of the licensee toward correcting it. The supervisor makes a decision regarding the course of action and the specialist sends written confirmation to the licensee of the decision.

In specific cases of a denial of a license application, warning of probation, probation, and license revocation, the specialist completes a “Case Review” form and submits it to the supervisor who makes a recommendation to OCCL’s administrator. OCCL’s administrator issues a decision on the next action to be taken by OCCL.

13. Conferences

13.1 Introduction

A conference is a tool that may be used by OCCL to attempt to resolve a variety of issues concerning licensees or applicants. In many cases, an enforcement action can be prevented by arranging a conference. A conference is a meeting between OCCL staff and the licensee or applicant to discuss non-compliance of a serious or repeated nature, which, if not corrected in a timely and acceptable manner, will result in an enforcement or enforcement action. It is not the intent of this policy to delay taking action against an applicant or licensee when harm has been done to children in care or future harm is likely. A conference may also be held in conjunction with an enforcement action.

Elements of a conference include:

- May be held before the non-compliance in a facility becomes so serious that an enforcement action is the only option;
- Is not appropriate in situations involving immediate risk to the health or safety of children in care; and
- Does not in any manner excuse past problems or non-compliance of the licensee.

13.2 Procedures for a Conference

Once the specialist and supervisor have determined a conference is necessary, the conference is scheduled.

The specialist prepares a “Notice of Conference” to be sent to the applicant or licensee. The letter enumerates the reasons for the conference. The specialist copies this letter into a FACTS resource note on the day the letter is prepared.

The letter must contain, but is not limited to, the following information:

- Statement indicating the nature and purpose of the letter;
- Statement discussing the purpose and goals of the conference, (i.e. avoiding an enforcement action and developing a suitable corrective action plan);
- Statement indicating the date, time, and location of the conference;
- Statement that the supervisor will be conducting the conference;
- Statement that the conference can be rescheduled for just cause if the applicant or licensee is unable to attend on the date and time indicated. The applicant or licensee must immediately notify OCCL upon receipt of the letter of the need to reschedule; and
- Statement advising that the applicant or licensee may bring someone with them to participate in the conference (i.e. legal counsel, another provider, a provider association representative, etc.) and a statement that the applicant or licensee must inform OCCL of the names of the people within two business days before the conference.

The letter must be mailed to the licensee no later than seven days before the conference if time permits.

Since the conference is informal, a rigid protocol for conducting the conference is not used. As the supervisor conducts the conference, he or she has the responsibility for ensuring the conference is conducted in a fair and orderly fashion. The non-compliance is discussed and a corrective action plan is developed. OCCL's administrator or supervisor also discusses the enforcement action which OCCL will take if the applicant or licensee fails to take the agreed upon corrective action or fails to maintain continual compliance.

Upon completion of the conference, the specialist summarizes the discussion and conclusions reached in a letter to the licensee within five business days of the conference. The letter should also include any corrective action required. It is also acceptable to develop an "AOU" following the conference within five business days in lieu of the letter (see section 11.2-11.4). The AOU must be signed by OCCL's conference participants and the licensee within five business days of its preparation.

13.3 Additional uses of a Conference

Conferences may also be used for the following reasons:

- When there is a disagreement between the specialist and the applicant or licensee over a *DELACARE* violation cited at a compliance review, complaint investigations, or enforcement visit;
- When there is a disagreement between OCCL and the applicant or licensee over an AOU;
- When there is a disagreement between OCCL and the applicant or licensee over granting a variance;
- To discuss issues associated with granting capacity less than requested; or
- To discuss a denial of a request to increase licensed capacity.

Given that a conference may be used in a variety of circumstances, it is necessary to give careful thought as to who should participate in the conference. When the purpose of the conference is to review the decision of OCCL staff, the person responsible for making the decision and the supervisor of that person should be involved. At a minimum, a supervisor must be involved.

14. Enforcement Actions

14.1 Introduction

Enforcement action is the term applied to an action or group of actions initiated by OCCL to promote compliance with regulations. Warning of probation, probation, suspension, revocation, and denial are the enforcement actions available to OCCL. These serve to correct a facility's repeated or serious non-compliance, to put the facility on notice that improved compliance with the regulations is needed, to provide the opportunity for technical assistance, or to cease the

operation of child care by a licensee. All enforcement letters are sent via certified mail with a green return receipt card and by regular mail.

The use of any of these actions requires the prior approval of OCCL's administrator. The deputy attorney general must be informed and consulted in advance of the use of an action as appropriate. In all enforcement actions, the standard of proof to be applied must be the preponderance of evidence. Each enforcement case must be looked at individually. Enforcement letters are sent to the licensees from Wilmington.

Any enforcement that is based on a DFS substantiation or similar should be run through Kriston Lowry-Sims before OCCL takes action.

14.2 Grounds for Enforcement

OCCL considers the following actions as serious violations of the terms of a license: child abuse or neglect, excessive non-compliance, failing to admit authorized people into the facility, failure to report abuse or neglect, improper discipline, improper release of children, improper staff-to-child ratios, inappropriate adult behavior, lack of supervision, medication errors, no administrator or curriculum coordinator, over-capacity, participating in fraud or making false statements, safe sleep violations, sanctioned by another agency, providing transportation in an unsafe manner, being under the influence of drugs and/or alcohol, leaving unqualified staff alone with children, having an unreported household member or substitute, having an unsafe building/environment, and violating an AOU (or refusing to sign one) which presents a significant risk to the children in care.

A conference may be conducted in an effort to give a licensee an additional opportunity to demonstrate compliance before implementing the enforcement action of warning of probation.

14.3 Warning of Probation

Either because of a conference or as an independent action, a warning of probation may be issued to a facility. A warning of probation is designed to alert the facility that it has committed serious violations or accumulated sufficient violations of *DELACARE*, which, if not promptly corrected, could lead to a recommendation to place the facility on Probation, to deny a license application, or revoke a license.

The essential elements of warning of probation are as follows:

- The facility is placed on warning of probation for six months;
- Beginning the month the facility is placed on warning of probation, the specialist conducts a monitoring visit of the facility at least once every other month;
- During this period, the licensee must promptly and effectively correct the non-compliance for which the warning of probation was issued and continually comply with those provisions and all applicable *DELACARE Regulations*. Failure to do so may result in a recommendation to extend the warning of probation for an additional six months or to place the facility on Probation. If warranted, revocation or denial may be recommended;
- A licensee can operate with a provisional license at the time the warning of probation notice is issued. The licensee must complete all corrective action in the time designated by the corrective action plan. Failure to replace the provisional license with an annual license during the warning of probation period may result in the extension of warning of probation, the heightened enforcement action of probation, revocation, or denial; and
- At least 30 days before the facility's warning of probation period is set to end, the specialist conducts an unannounced full compliance review to ensure the warning of probation should be lifted.

14.4 Procedures for Issuing Warning of Probation

The specialist completes a “Case Review” form and discusses the situation with the supervisor. Once the specialist and supervisor agree that a facility warrants warning of probation, they make a recommendation to OCCL’s administrator. When information from CHU is being used, a CHU specialist will be included in the case review. If OCCL’s administrator approves, the specialist prepares the “Notice of Intent to Place on Warning of Probation” for OCCL administrator’s signature within 10 business days of the case review. If corrections to the Notice are needed, the specialist must correct and return the enforcement letter to the supervisor within five business days. The support staff sends this “Notice” via certified mail/return receipt requested and by regular mail within five business days. The specialist copies this “Notice” into a resource note in FACTS within one business day of being notified the letter was approved by OCCL’s administrator. The supervisor notifies Stars Deputy Director an enforcement action is pending at the time the letter is mailed.

The letter must contain, but is not limited to, the following information:

- Statement explaining the purpose and significance of warning of probation;
- Statement immediately before the bulleted items, “This action is recommended because...” followed by an executive summary of the serious non-compliance in broad terms. Leave this off if there’s only one violation leading to the enforcement;
- Statement citing specific reasons and justification for the notice; (listing non-compliance starting in the past and ending with the present issues cited for the last three years (if relevant to showing a pattern of non-compliance) and any technical assistance that was provided by OCCL);
- When writing enforcement letters the specialist is to write the regulation number in parentheses next to the violation, list the serious non-compliance first, then make a statement such as, “Other violations noted during this visit were...” Example: On July 19, 2017, Licensing Specialist Sara Queen observed 77 children alone with one unqualified (27), non-fingerprinted (20), volunteer from an Alcoholics Anonymous meeting located across the street from the facility. The volunteer was teaching children to play “beer pong” on the ping-pong table (66). Numerous children were sick and or intoxicated. The volunteer was also intoxicated and attempted to bar the Specialist’s entrance into the facility by holding the door shut and repeatedly asking, “What is the password (6)?” Other violations noted during this visit were that the menu was not posted (63), beer was spilled on the floor in many spots throughout the classroom (36), and the attendance log was not accurate (16).
- Statement explaining unannounced visits will occur to monitor compliance with *DELACARE*;
- Statement indicating there must be continued compliance with *DELACARE*;
- Statement indicating OCCL will seek to extend the warning of probation, place the facility on Probation, Deny the license application, or revoke the license if the licensee fails to maintain compliance with *DELACARE*;
- Statement notifying the licensee of the right to an administrative hearing to refute the non-compliance citations if the licensee has additional information that may result in a change in the determination to issue warning of probation;
- Statement that the licensee must request this hearing within 10 business days of receipt of this notice or the facility will be placed on warning of probation;
- Statement advising the licensee that they are expected to notify OCCL at the time of making the hearing request if they plan to obtain legal counsel;
- Statement that if an administrative hearing is requested, it will be held within 30 business days;
- Statement that OCCL administrator’s designee issues a finding of Fact and recommendation after the hearing is held. Based on this recommendation OCCL’s administrator determines whether the facility will be placed on warning of probation; and
- For LFCCH enforcement letters, specialists will need to CC the licensee/owner if the provider does not own the LFCCH and for center enforcement letters, specialists will need to CC the licensee/owner/applicant if the designated representative does not own the center. Ex. C. John Smith, Owner.

If the facility requests an administrative hearing, the supervisor contacts the licensee, hearing officer, specialist, and

deputy attorney general and licensee's attorney (if applicable) to determine a hearing date. Then the supervisor sends a "Notice of Warning of Probation (Hearing Requested)" to the licensee that states the date, time, and location of the hearing. OCCL subpoenas any witness who is unwilling to testify. The supervisor contacts the deputy attorney general to issue a subpoena.

The letter must contain, but is not limited to, the following information:

- Date, time, and location of the hearing;
- Statement that OCCL administrator's designee will be conducting the hearing;
- Statement the hearing can be rescheduled, for just cause, if the licensee is unable to attend the date and time indicated. The licensee must immediately notify OCCL upon receipt of the letter of the need to reschedule;
- Statement that attendance is mandatory and failure to appear will result in the facility being placed on warning of probation;
- Statement advising that the licensee may bring someone to participate in the hearing, i.e. legal counsel, another provider, a provider association representative, etc.
- Statement advising the licensee that they are expected to notify OCCL upon receipt of this notice if they plan to obtain legal counsel;
- Statement that the licensee must inform OCCL the names of the other people attending within 2 business days of the hearing;
- Statement that OCCL administrator's designee issues a recommendation within five business days of the hearing; and
- Statement that within 10 business days after receiving the findings of fact and recommendations, OCCL's administrator makes a decision on the matter and issues a letter.

If the facility is placed on warning of probation based on the decision of OCCL's administrator, or if an hearing was not requested within the specified time, or some other information leads to the acceptance of this enforcement action, the specialist sends a "Notice of Warning of Probation (Hearing Held)" or a "Notice of Warning of Probation (No Hearing Requested)" within five business days confirming the facility has been placed on warning of probation indicating the effective dates.

The specialist enters the action in FACTS within five business days. Notice of the facility's warning of probation status will also automatically appear on OCCL's website based on the information recorded in FACTS by the specialist. In cases when the provider does not want a hearing, the enforcement action begins when OCCL is notified a provider does not want a hearing.

Decisions to place a facility on warning of probation may be appealed to the division director or her designee, and then to the cabinet secretary. A review of paper work will be conducted, not a new hearing. A decision will be provided within 10 business days.

Once the "Notice of Warning of Probation" has been issued, the specialist makes a minimum of one visit every other month beginning the month the facility was placed on enforcement, in addition to the full compliance review to determine if the enforcement action should be lifted. If the licensee fails to comply with the provisions of the warning of probation, the specialist may recommend the warning of probation is extended for up to an additional six months, the facility be placed on Probation, the license be revoked, or denial of the license application. A new "case review" form is to be completed.

14.5 Procedures for Lifting Warning of Probation

At least 30 days before the facility's warning of probation period is set to end, the specialist conducts an unannounced full compliance review to ensure the warning of probation should be lifted. The specialist does not recommend verbally

to the licensee/designated representative or record in any visit notes a recommendation for a facility to come off enforcement. This is determined after the specialist and supervisor discuss the case. If an annual full compliance visit is to be conducted within 60 days of this visit, another full compliance review is not required. The specialist reports these findings to the supervisor, records the visit in FACTS within five business days, and recommends the action be lifted, extended, or elevated. In cases where the facility is found to be non-compliant with serious *DELACARE Regulations*, the specialist prepares a “Case Review” and consults with the supervisor and OCCL administrator at least 10 business days before the enforcement’s expiration date to determine if the facility’s Warning or Probation should be extended or elevated.

Lifting warning of probation:

- The enforcement may be lifted if the facility demonstrates a pattern of compliance by successfully completing these visits without being cited for serious non-compliance and all non-compliance cited during the period of enforcement was corrected;
- The specialist adds a sentence to the previously completed “Case Review” form that states a discussion was held with the supervisor and a decision was made to lift the enforcement. This statement will include the date the discussion was held. The administrator does not need to be included in the discussion;
- Upon expiration of a facility’s probation period, the facility will no longer be considered on warning of probation, unless an extended warning of probation period is determined to be appropriate or non-compliance has not been corrected. The licensee is advised in writing by the specialist’s issuance of a “Notice of End of Warning of Probation” within five business days of the conclusion of the warning of probation period stating that any non-compliance with *DELACARE* occurring within three years of this date and which can be reasonably considered justification for issuance of warning of probation, will result in the issuance of an enforcement action;
- The specialist enters the end date of warning of probation into FACTS and copies the “Notice of End of Warning of Probation” into the notes section at the time the Notice is sent to the licensee. This act removes the enforcement action from OCCL’s website; and
- The specialist notifies Stars the enforcement has ended.

14.6 Probation

When a facility has clearly demonstrated a continued inability to comply with *DELACARE*, has committed serious violations or accumulated sufficient violations of *DELACARE*, or has violated the terms of the license, the specialist may recommend to OCCL’s administrator that the licensee be put on probation. The purpose of probation is to give a licensee an additional opportunity to demonstrate its ability and intent to comply with *DELACARE*.

The essential elements of probation are as follows:

- The facility is placed on probation for one year;
- When placing a person on enforcement place them on for 365 days, for example, from February 1, 2016 to January 31, 2016. In this case, you would lift the enforcement on February 1, 2017;
- Beginning the month the facility is placed on probation, the specialist conducts monitoring visits of the facility at least once every other month;
- During this period, the licensee must effectively correct non-compliance for which the probation was issued and continually comply with those provisions and *DELACARE*. Failure to do so may result in a recommendation to extend the probation for an additional year or, if warranted, OCCL moving to revoke the license or to deny a license application;
- At least 30 days before the facility’s probation period is set to end, the specialist conducts an unannounced full compliance review to ensure the probation should be lifted; and
- A licensee can operate with a provisional license at the time the probation notice is issued. The licensee must complete all corrective action in the time designated by the provisional license. Failure to replace the

provisional license with an annual license during the probation period may result in the enforcement action of revocation, or denial.

14.7 Procedures for Issuing Probation

The specialist completes a “Case Review” form and discusses the situation with the supervisor. Once the specialist and supervisor agree that a facility warrants probation, they make a recommendation to OCCL’s administrator. When information from CHU is being used, a CHU specialist will be included in the case review. If OCCL’s administrator approves, the specialist prepares a “Notice of Intent to Place on Probation” for the division director’s signature along with a memo outlining the reasons for probation within 10 business days of the case review. If corrections to the Notice are needed, the specialist must correct and return the enforcement letter to the supervisor within five business days. OCCL’s administrator forwards the recommendation to the division director for approval and signature. The division director signs and sends the “Notice” to OCCL for Wilmington support staff to send to the licensee via certified mail/return receipt requested and by regular mail within five business days. The specialist copies this “Notice” into the notes section of the FACTS probation action within one business day of receiving the “Notice.” The supervisor notifies Stars an enforcement action is pending at the time the letter is mailed.

The letter must contain, but is not limited to, the following information:

- Statement explaining the purpose and significance of probation;
- Statement immediately before the bulleted items, “This action is recommended because...” followed by an executive summary of the serious non-compliance in broad terms. Leave this off if there’s only one violation leading to the enforcement;
- Statement citing specific reasons and justification for the notice (listing non-compliance starting in the past and ending with the present issues);
- When writing enforcement letters the specialist is to write the regulation number in parentheses next to the violation, list the serious non-compliance first, then make a statement such as, “Other violations noted during this visit were...” Example: On July 19, 2017, Licensing Specialist Sara Queen observed 77 children alone with one unqualified (27), non-fingerprinted (20), volunteer from an Alcoholics Anonymous meeting located across the street from the facility. The volunteer was teaching children to play “beer pong” on the ping-pong table (66). Numerous children were sick and or intoxicated. The volunteer was also intoxicated and attempted to bar the Specialist’s entrance into the facility by holding the door shut and repeatedly asking, “What is the password (6)?” Other violations noted during this visit were that the menu was not posted (63), beer was spilled on the floor in many spots throughout the classroom (36), and the attendance log was not accurate (16).
- The corrective action, if any, which must be taken and a time frame for completion;
- Statement indicating there must be continued compliance with *DELACARE*;
- Statement indicating OCCL will seek denial or revocation of the license if the licensee fails to maintain compliance with *DELACARE*;
- Statement notifying the licensee of the right to an administrative hearing to refute the non-compliance citations if the licensee has additional information that may result in a change in the determination to issue probation;
- Statement advising licensee that when requesting a hearing, he or she is expected to notify OCCL if the licensee is planning to obtain legal counsel;
- Statement that the licensee must request this hearing within 10 business days of receipt of this notice;
- Statement that if an administrative hearing is requested it will be held within 30 business days;
- Statement that OCCL administrator’s designee issues a recommendation within five business days after the hearing is held. Based on this recommendation, the Director of the Division of Family Services determines whether the facility will be placed on probation within 10 business days after receiving the recommendation; and
- For LFCCH enforcement letters, specialists will need to CC the licensee/owner if the provider does not own

the LFCCH and for center enforcement letters, specialists will need to CC the licensee/owner/applicant if the designated representative does not own the center. Ex. John Smith, Owner.

If the facility requests an administrative hearing, the supervisor contacts the licensee, hearing officer, specialist, and deputy attorney general and licensee's attorney (if applicable) to determine a hearing date. Then the supervisor sends a "Notice of Probation (Hearing Requested)" to the licensee. OCCL subpoenas any witness who is unwilling to testify. The supervisor contacts the deputy attorney general to issue a subpoena.

The letter must contain, but is not limited to, the following information:

- Date, time, and location of the hearing;
- Statement that a hearing officer will be conducting the hearing;
- Statement that the hearing can be rescheduled for just cause, if the licensee is unable to attend the date and time indicated. The licensee must immediately notify OCCL upon receipt of the letter of the need to reschedule;
- Statement that attendance is mandatory and failure to appear will result in the facility being placed on probation;
- Statement advising licensee that upon receipt of this notice, he or she is expected to notify OCCL if the licensee is planning to obtain legal counsel;
- Statement that the identity of all other people attending must be provided within two business days before the hearing;
- Statement that OCCL administrator's designee will issue a recommendation within five business days of the hearing; and
- Statement that within 10 business days after receiving the findings of fact and recommendations, the director of the Division of Family Services will review the information and make a final case decision.

If the facility is placed on probation based on the decision of the division director, if an administrative hearing was not requested within the specified time frame, or if some other information leads to the acceptance of the enforcement action, the specialist prepares a "Notice of Probation (No Hearing Requested)" or "Notice of Probation (Hearing Held – Affirmed)" within five business days confirming that the facility has been placed on probation that indicates the effective dates of this action and forwards it to the supervisor, who approves it and sends it to the division director for signature and mailing.

The action must be recorded in FACTS at the time the "Notice" is sent to the licensee. Notice of the facility's probation status will also automatically appear on OCCL's website based on the information recorded in FACTS by the specialist. In cases when the provider does not want a hearing, the enforcement action begins when OCCL is notified a provider does not want a hearing.

Decisions to place a facility on probation may be appealed to the cabinet secretary. A review of paper work will be conducted, not a new hearing. A decision will be provided within 10 business days.

Once the "Notice of Probation" has been issued, the specialist makes a minimum of one visit every other month beginning the month the facility was placed on enforcement, in addition to the annual licensing renewal visit, to measure compliance. If the licensee fails to comply with the provisions of the probation notice, the specialist may recommend probation be extended for up to an additional year, revocation, or denial. If the facility has complied with the provisions of probation, the enforcement is lifted. The specialist prepares the "Notice of End of Probation" and notifies Stars the enforcement has been lifted.

14.8 Procedures for Lifting Probation

At least 30 days before the facility's probation period is set to end, the specialist conducts an unannounced full

compliance review to ensure the probation should be lifted. The specialist does not recommend verbally to the licensee/designated representative or record in any visit notes a recommendation for a facility to come off enforcement. This is determined after the specialist and supervisor discuss the case. If the annual full compliance visit is to be conducted within 60 days of this visit, another full compliance review is not required. The specialist reports these findings to the supervisor, records the visit in FACTS within five business days, and recommends the action be lifted, extended, or elevated. In cases where the facility is found to be non-compliant with serious *DELACARE Regulations*, the specialist prepares a "Case Review" and consults with the supervisor and OCCL administrator at least 10 business days before the enforcement's expiration date to determine if the facility's probation period should be extended for an additional year or if the license should be revoked. The periods of probation may not exceed two years from the date of issuance.

Lifting probation:

- The enforcement may be lifted if the facility demonstrates a pattern of compliance by successfully completing these visits without being cited for serious non-compliance all non-compliance cited during the period of enforcement was corrected;
- The specialist adds a sentence to the previously completed "Case Review" form that states a discussion was held with the supervisor and a decision was made to lift the enforcement. This statement will include the date the discussion was held. The administrator does not need to be included in the discussion;
- Upon expiration of a facility's probation period, the facility will no longer be considered on probation, unless an extended probation period is determined to be appropriate or non-compliance has not been corrected. The licensee is advised in writing by the specialist's issuance of a "Notice of End of Probation" within five business days of the conclusion of the Probation period stating that any non-compliance with *DELACARE* occurring within three years of this date and which can be reasonably considered justification for issuance of warning of probation, will result in the issuance of probation, revocation, or denial;
- The specialist enters the end date of probation into FACTS and copies the "Notice of End of Probation" into the notes section at the time the Notice is sent to the licensee. This act removes the enforcement action from OCCL's website; and
- The specialist notifies Stars the enforcement has ended.

14.9 Facility Closure during the Effective Dates of Warning of Probation or Probation

In the event a facility closes during the effective dates of its warning of probation or probation, the licensee is advised in writing that the reasons for the issuance of the enforcement action will be considered in any future license applications made to OCCL. If the facility later reopens, it will be opened on enforcement to serve the remaining time of the enforcement. The specialist notifies POC, CACFP, Stars, and the fire marshal that the facility has closed and makes a resource note in FACTS that includes the email that was sent to these agencies.

14.10 Procedures for Extending Warning of Probation or Probation

In cases where a facility fails to complete an enforcement action by being cited for serious non-compliance during the enforcement period, the specialist may recommend to heighten or extend the enforcement action. A new "Case Review" form is to be completed and discussed with the supervisor. If the supervisor agrees, the specialist and supervisor consult the administrator for approval to proceed with the enforcement action. The specialist completes a "Notice of Intent to Extend Warning of Probation" or "Notice of Intent to Extend Probation using the steps listed in section 14.4 and 14.7. However, the specialist only lists the non-compliance cited since the facility was placed on probation and makes a reference to current enforcement action by including a statement in the bulleted list that states, "The facility was placed on Probation or Warning of Probation on December 12, 2017- May 30, 2018 (see attached "Notice of Intent to Place on Probation or Warning of Probation." The letter to extend or heighten an enforcement action is to be sent out preferably two weeks before the enforcement action's previously stated end date. The letter is to be sent no later than one week before the current enforcement action is scheduled to end.

Extension hearings should be heard by a hearing officer at the same level as the original hearing officer. They can, but do not have to be, heard by the same exact person. Joe Smack can substitute for Warning of Probation hearings if Janica Smith is unavailable.

14.11 License Application for another Facility While on Enforcement

If a licensee with a facility on warning of probation or probation submits an application for the licensure of another facility, the application will be denied.

14.12 Suspension Order Introduction

If the health, safety, or well-being of children in care is in serious or imminent danger, or risk thereof, OCCL may immediately suspend the facility's license upon issuance of a "Suspension Order." If a FACTS tickler case shows the FCCH or LFCCH provider or household member as the perpetrator, the license may be suspended or an AOU may be created to ensure the perpetrator is not in the home during hours of care.

In the event of a child death at a LFCCH or FCCH, the facility's license is immediately suspended. In the event of a child death at a center, the staff may be suspended. Rather than wait until the official cause of death is known, OCCL will reinstate a FCCH or LFCCH license, or permit a suspended employee to return if OCCL receives a statement from the police that no charges or concerns exist. The supervisor notifies the deputy attorney general when a child death occurs. OCCL's administrator or supervisor notifies the division director, cabinet secretary, and Community Relations Coordinator, currently, Dawn Thompson, and Resource and Development Administrator, currently Kelly McDowell, of a child death.

The essential elements of "Suspension Orders" are as follows:

- The suspension of a license has the effect of discontinuing the facility's license on the date the "Suspension Order" is delivered. The licensee is to cease operation by the end of business that day. The Order may be verbal or written. Any verbal Order must be followed by a written Order and is sent to licensee via certified mail return receipt requested the same day as the verbal notice;
- Within 10 business days after the issuance of the written "Suspension Order," the licensee may request an administrative hearing;
- Rather than be suspended, the licensee may choose to close the facility. If the licensee chooses to close the facility and relinquish/surrender the license, the specialist waits 10 business days and sends a "Notice of License Termination (Closure to Avoid an Enforcement Action – Suspension)" and copies the letter into a FACTS resource note;
- If the licensee requests a hearing, the specialist advises the licensee of the following possible outcomes of the hearing: suspension continued pending the outcome of a criminal investigation/abuse or neglect investigation, OCCL moving to revoke or deny the license, or reinstatement of the license if certain corrective action can be taken which would ensure safe operation and compliance with *DELACARE*;
- The "Suspension Order" automatically expires 45 days after the administrative hearing. At this point, if the issues that led to the suspension have not been resolved, the specialist contacts the licensee to see if they wish to remain suspended or want OCCL to move to revoke. The specialist documents this discussion in FACTS. If OCCL notifies the licensee during the period of the "Suspension Order" that it intends to revoke or deny the license application, then the license remains suspended until an administrative hearing is held and the order on the matter is issued by the cabinet secretary. The licensee also has the option to close the facility. If the licensee requests a continuance due to a pending investigation, the license remains suspended.
- If the licensee requests a hearing regarding a substantiated IA investigation, the license will remain suspended until the results of the hearing have been issued.

14.13 Procedures for “Suspension Order” Issuance

The following procedures are used for “Suspension Order” issuance:

1. OCCL’s administrator or designee is notified immediately of a situation that requires a “Suspension Order.” OCCL’s administrator or designee determines if a “Suspension Order” is warranted. In cases of a child death at a FCCH or LFCCH, the license is immediately suspended until the cause of death is determined. If no foul play is found, the license may be reinstated. If a death occurs at a center, the license may be suspended depending on the circumstances surrounding the child’s death.
2. If a “Suspension Order” is granted, the specialist prepares the “Suspension Order” and suspends the license in FACTS the same day the suspension was issued. The specialist copies the “Suspension Order” in the license action screen.

The “Suspension Order” must include at least the following information:

- Statement indicating the purpose of the letter, i.e. the license to operate has been suspended;
 - Statement indicating the date and time when the license suspension takes effect;
 - Statement that specifically details the reasons for the Order;
 - Statement citing the legal basis for the Order, including the applicable set of regulations;
 - Statement that the facility is to immediately notify parents/guardians with children in the facility of the Order;
 - Statement indicating to whom or where the licensee should refer parents for assistance in finding alternative care;
 - Statements explaining that the licensee can either close and lose the right to provide child care, agree to accept the suspension, or request an administrative hearing within 10 business days of the issuance of the Order;
 - For LFCCH enforcement letters, specialists will need to CC the licensee/owner if the provider does not own the LFCCH and for center enforcement letters, specialists will need to CC the licensee/owner/applicant if the designated representative does not own the center. Ex. C. John Smith, Owner.
3. The specialist notifies POC, the Child Adult Care Food Program, fire marshal, and DE STARS as appropriate.
 4. If a hearing is requested before the “Suspension Order” is sent, also include the _____ items required in “Notice of Suspension (Hearing Requested):”
 - The date, time, and location of the administrative hearing and a statement that the division director or designee will be conducting the hearing;
 - Statement detailing the possible outcomes of the hearing, i.e. continue suspension, reinstatement of the license, etc.;
 - Statement that the hearing can be rescheduled for just cause, if the licensee is unable to attend the date and time indicated. The licensee must immediately notify OCCL upon receipt of the letter of the need to reschedule;
 - Statement that attendance at the administrative hearing is mandatory and failure to appear will result in OCCL taking additional enforcement action against the facility;
 - Statement advising that the licensee may bring someone to participate in the hearing, i.e. legal counsel, another provider, a provider association representative, etc.;
 - Statement advising that the licensee may bring someone to participate in the hearing, i.e. legal counsel, another provider, a provider association representative, etc.; and
 - A statement advising licensees who obtain legal counsel to notify OCCL when making the request for a hearing and to identify all other people attending within two business days before the hearing.
 - The “Suspension Order” is hand-delivered by the specialist to the facility or sent via certified mail/return

receipt requested. Any verbal Order must be followed by a written Order.

14.14 Conducting the Administrative Hearing for Suspensions

Upon request of the licensee for an administrative hearing, the division director/designee schedules a hearing within 10 business days of the licensee's request at which the licensee and/or licensee's representative may be present. If the licensee hires an attorney, the deputy attorney general must be notified and attend the hearing.

Since the hearing is informal, a rigid protocol for the hearing is not used. The division director/designee has the responsibility for ensuring the hearing is conducted in a fair and orderly fashion. The division director/designee decides before the hearing whether the witnesses will be present for the entire hearing or be called only to testify. To avoid hearsay, when the suspension is related to a criminal charge or child abuse, the specialist requests a CHU Specialist, Kriston Lowry-Sims, and/or a DFS worker to testify at the hearing. OCCL can subpoena any witness who is unwilling to testify. The supervisor contacts the deputy attorney general to issue a subpoena. At the hearing, the reason for the "Suspension Order" is discussed.

The purpose of the hearing is to receive input from OCCL staff and the licensee on current conditions/circumstances and to assess/evaluate the degree of risk to children if the facility would be allowed to reopen. A corrective action plan must be developed if the facility is permitted to reopen. OCCL staff also discusses the enforcement actions which will be taken if the licensee fails to take the agreed upon corrective action or fails to maintain continual compliance. The licensee is advised that if an investigation is still in progress, the findings of the investigation may result in other corrective or enforcement action.

The division director/designee conducts the administrative hearing and makes a decision within five business days on continuing the suspension or reinstating the license. The division director/designee may choose to reinstate without conditions, reinstate with conditions to reduce risk to children, continue suspension-pending outcome of an investigation, or continue suspension-pending further enforcement action by OCCL.

Upon completion of the hearing, the division director/designee determines the outcome and informs the licensee of the outcome of the hearing by issuing a "Notice of Suspension (Hearing Held – Affirmed)," "Suspension Determination," or "Notice of Suspension (Hearing Held – License Reinstated)." The specialist prepares this letter and forwards it to the supervisor, who forwards it to the designee. The letter also states any agreed-upon conditions that allowed for reinstatement, any corrective action required, and that failure to comply with the conditions agreed upon will lead to OCCL taking further enforcement actions. The letter is sent to the licensee via certified mail/return receipt requested. The signed receipt is placed in the licensing record.

A "Suspension Order" remains in effect until the risk to children has been eliminated, the licensee chooses to close, or OCCL notifies the licensee during the suspension period that it intends to revoke the license or deny the license application. If OCCL has determined the license will be revoked or application will be denied, the division director/designee, as set forth in the denial or revocation of a license (see Section 15.12-15.15), provides justification for the intent to deny an application or revoke the license. The license must remain suspended until an administrative hearing is conducted and the cabinet secretary issues an order on the matter or the facility decides to close.

The specialist records all actions related to the "Suspension Order" in the licensing and FACTS records. The status of suspension removes the suspended facility from OCCL's website.

Suspensions may be appealed to the cabinet secretary and then superior court.

14.15 Lifting a Suspension

When the risk to children has been eliminated, OCCL can lift the suspension. Before lifting the suspension, the specialist visits the facility and completes a compliance review and checks to ensure the facility is following all of the regulations that can be verified when children are not in care. Once a review is completed and the corrective action, if applicable, has been completed the suspension is lifted in FACTS and the facility is issued an annual license that is set to expire when the suspended license would have. If the license was suspended and the annual license expired, the facility's owner must submit a renewal application to be issued a license.

14.16 Denial, Suspension, or Revocation of a Facility's License

The Division may deny an application, suspend or revoke a facility's license for good cause, for reasons including but not limited to the following:

- Failure to comply with applicable provisions of State law or of the regulations;
- Violation of the terms or conditions of a facility's license, corrective action plan, or AOU;
- Use of fraud, intentional or negligent misrepresentation in obtaining a license or in the subsequent operation of the facility;
- Refusal to furnish information, files, and records to representatives of OCCL or other authorized State or local officials for the purposes of determining compliance and/or investigating complaints of non-conformity with applicable provisions of the regulations, and any other applicable codes, regulations, and laws;
- Refusal to permit access to the facility during hours of operation by representatives of OCCL or other state or local officials with responsibilities for monitoring, approving, authorizing the use or safety of a facility or providing payment for services provided at the facility;
- Refusal to respond to and cooperate with requests from representatives of OCCL or other authorized state or local officials or to allow for the announced or unannounced inspection of any area/aspect of the facility which affects or potentially affects the children in child care. This includes access to unlicensed space of the facility for the purposes of determining compliance and/or investigating complaints of the regulations, or any other applicable codes, regulations, and laws including suspected child abuse and neglect;
- Engagement in any activity, policy, practice, or conduct that adversely affects or presents a serious or imminent danger, or risk thereof to the health, safety, or well-being of children (a child death at a FCCH and LFCCH results in immediate suspension of the license);
- Conduct that otherwise demonstrates unfitness by the licensee, substitute, a household member, or a staff member to operate or remain at a facility; or
- Operation of any activity not permitted under local, state, or federal law at the facility.

14.17 Procedures for Denial or Revocation of a Facility's License

The specialist completes a "Case Review" form and discusses the situation with the supervisor. If the specialist and supervisor agree that a facility warrants denial or revocation, they make a recommendation to OCCL's administrator. If OCCL's administrator approves, the specialist prepares a "Notice of Intent to Revoke License" or "Notice of Intent to Deny License Application" and memo to the director outlining the reasons within 10 business days of the case review. If corrections to the Notice are needed, the specialist must correct and return the enforcement letter to the supervisor within five business days. The procedure for denial or revocation is used only in situations in which the health or safety of children in care is not in imminent danger. If children are in imminent danger, then a "Suspension Order" is also issued (see section 14.12-14.13). The following format is to be used:

1. The specialist reviews all evidence to substantiate the recommendation for denial or revocation (including compliance reviews, reports of visits to the facility, reports of other agencies, conversations with the facility, complaint reports, previous enforcement actions and correspondence) in the licensing record.
2. Before making a formal recommendation to deny or revoke, the case is discussed with OCCL's administrator to

consider all other available methods for correcting non-compliance with the regulations.

3. If agreement exists to proceed with denial or revocation, the specialist prepares a draft “Notice of Intent to Revoke License” or “Notice of Intent to Deny License Application.” This notice lists the reasons for denial or revocation. The letter must contain, but is not limited to, the following:
 - Purpose of the letter: notification of intent to deny license application or notification of intent to revoke the license;
 - Chronological review of the licensee’s compliance history (starting in the past and working forward). If the action is based on ongoing non-compliance the specialist writes a brief overview of observations on each date and cites the regulations that were violated on that date;
 - Legal basis for the action, including the applicable set of regulations applied;
 - Statement that advises the licensee of the right to request (verbally or written) an Appeal (see section 14.18) within 10 business days after receipt of the letter;
 - Statement that if a request for an administrative hearing is not received within 10 business days after the receipt of the letter, the denial or revocation is final 30 days after the date of receipt of the letter; and
 - For LFCCH enforcement letters, specialists will need to CC the licensee/owner if the provider does not own the LFCCH and for center enforcement letters, specialists will need to CC the licensee/owner/applicant if the designated representative does not own the center. Ex. C. John Smith, Owner.
4. The draft must be reviewed by OCCL’s administrator and approved by the division director.
5. Once approved, the “Notice of Intent to Revoke License” or “Notice of Intent to Deny License Application” is signed by the division director and is sent by support staff to the facility via certified mail/return receipt requested and regular mail, with copies to the specialist, supervisor, and deputy attorney general.
6. Enforcement action is recorded in licensing and FACTS records.

For a site that is operating, once the revocation or denial letter has been sent, a minimum of one unannounced visit per month must be conducted until the facility ceases operation to ensure children are safe.

14.18 Appeals for Revocations or Denials

A hearing will be conducted when a written or verbal request for an administrative hearing is received by the Division within 10 business days of the date the “Notice of Intent to Revoke License” or “Notice of Intent to Deny License Application” was received by the licensee/applicant. Support staff schedule a hearing within 30 business days from the date the request is received, unless for good cause the hearing officer grants postponement or parties agree to postponement.

Once a hearing has been requested, the supervisor emails the related enforcement documents, 4 dates of availability for specialist, supervisor, and deputy attorney general (looking for dates between 2 and 4 weeks after hearing request is made), and hearing request to support staff. Within one day, support staff emails the “Request for Hearing Services”, the dates of availability, the “Notice of Intent to Revoke or Deny” along with supporting documents to the hearing officer’s secretary and copies the deputy attorney general, supervisor, and specialist. Support staff reserves the conference room for these dates, until the date is confirmed. If supervisor is out, the specialist emails support staff with the above stated information. The hearing officer issues a “Notice of Administrative Hearing”, which includes the following information:

- Date, time, and location of the hearing;
- Statement that a hearing officer will be conducting the hearing;
- Statement that the hearing can be rescheduled for just cause if the licensee/applicant is unable to attend the date and time indicated. The licensee/applicant must immediately notify OCCL upon receipt of the letter of the need to reschedule;
- Statement that attendance is mandatory and failure to appear will result in the license application being denied or the license revoked;

- Statement advising that the licensee/applicant may bring someone to participate in the hearing, i.e. legal counsel, another provider, a provider association representative, etc.;
- A statement advising licensees/applicants who obtain legal counsel to notify OCCL and the identity of all other people attending must be provided within two business days before the hearing;
- Statement that the hearing officer will issue a recommendation within 10 business days of the hearing to the cabinet secretary; and
- Statement that within 10 business days after receiving the findings of fact and recommendations of the hearing officer, the cabinet secretary will review the information and make a final case decision. If the cabinet secretary affirms the recommendation for revocation or denial of the license application, a facility that is already operating has 10 business days to close from the receipt of the cabinet secretary's decision.

A hearing officer who has had no previous involvement in the matter prompting the denial or revocation must conduct the administrative hearing.

If a licensee requests a hearing within 10 business days of the date the "Notice of Intent to Deny" or "Notice of Intent to Revoke" was received, the existing facility's license will remain in effect until an official written decision has been rendered after the hearing. OCCL has the authority to suspend the facility's license immediately whenever the health, safety, or well-being of children in care is in serious or imminent danger or risk thereof.

The cabinet secretary's decision to revoke or deny a license application may be appealed to Superior Court within 30 days of receipt of the decision. The costs for this appeal are to be paid for by the person requesting the appeal.

14.19 Appeal Not Requested

If a licensee/applicant does not make a request for an administrative hearing within 10 business days of the date the "Notice of Intent to Deny License Application" or "Notice of Intent to Revoke" was received by the licensee/applicant, the action in the notice will become final and binding. There is no further right of review and it will take effect 30 days after the issuance of the notice. However, where stated in the Division's notice, if the health, safety, or well-being of children in child care is in serious or imminent danger or risk thereof a "Suspension Order" is issued to immediately cease child care services.

The specialist prepares a "Confirmation of License Application Denial (Untimely Administrative Hearing Request)," "Confirmation of License Application Denial (No Hearing Requested)," or "Confirmation of License Revocation (No Hearing Requested)" within five business days addressed to the facility, which is signed by the division director and includes the following statements:

- The application has been denied or the license revoked in accordance with *DELACARE*;
- In the case of revocation, the license must be returned to the specialist; and
- Beginning or continued operation without a license is a violation of state law and such may result in legal action.

After preparing the appropriate letter, the specialist forwards it to the supervisor for review. After the supervisor approves the letter, it is sent to the division director for signature and mailing.

The specialist must make an inspection visit soon after the scheduled date of the denial or revocation to determine that children are not in care at the facility and to obtain the license if it has not been returned. If operation is noted, the specialist informs OCCL's administrator and the division director, who refers the matter to the Office of the Attorney General for appropriate legal action. When determining when to finalize a license denial in FACTS, count 15 business days from when the letter was sent.

15. Administrative Hearing Guidelines for Revocations and Denials

15.1 Introduction

Upon receipt of a written request for an administrative hearing because of a denial or revocation, a hearing officer will be appointed. The hearing officer must be an attorney in private practice that has had no previous involvement or knowledge in the matter. The hearing officer must issue a notice of administrative hearing indicating the date, time and place of the hearing. The notice will be sent to the applicant or licensee, their attorney (if applicable), OCCL and the deputy attorney general who will be representing OCCL in the case.

15.2 Right to Counsel

At the hearing, the parties have the right to be accompanied and represented by counsel or other representatives of their choosing and at their own cost.

15.3 Continuances

If a request is made for postponement of a hearing, the decision to grant or deny the request must be made by the hearing officer. No continuance of a formal hearing will be granted except at the discretion of the hearing officer. A written notice of request for continuance must be received by the hearing officer at least five business days before the date designated for the hearing, except in cases of undue hardship. All parties involved in a hearing must avoid undue delay caused by postponements or continuance so that a decision can be made expeditiously.

15.4 Recesses and Postponements

The hearing officer has the authority to grant recesses and postponements where necessary for the convenience and comfort of the parties and witnesses.

15.5 Failure of a Party to Appear

The hearing officer has the discretion to determine how to proceed depending on the circumstance of the absence. The hearing officer has the option of hearing the evidence of the parties present and issuing a recommendation.

15.6 Hearing Officer's Duty

The hearing officer is responsible for conducting a fair hearing and has discretion in adopting procedures to meet the needs of each particular case.

15.7 Conduct of Hearing

To initiate the proceedings, the hearing officer calls the hearing to order and makes a brief statement giving the name of the proceeding, the names of all persons present and involved in the proceeding, and other appropriate introductory remarks such as the general regulations of decorum and conduct. Before the formal presentation of evidence begins, the parties should be given an opportunity to bring up any preliminary matters or motions. The parties at administrative hearings have the right to submit oral and documentary evidence and rebuttal proofs, and the right to conduct cross-examination to obtain full and fair disclosure of the facts. The hearing must be closed to the public unless the licensee/applicant requests that it be open.

The following must be the order of proceedings at all hearings, subject to modification by the hearing officer before such hearing is scheduled, for good cause:

- Presentation, argument and disposition of all preliminary matters and motions;
- Presentations of opening statements. Such statements are not subject to cross examination and will eliminate the need for and discourage attempts to present argumentative testimony;
- Department counsel presents OCCL's case, calling witnesses in such order as he or she sees fit. Each witness is subject to direct, cross, and redirect examination. Both the counsel for the adverse party and the hearing officer may direct questions to the witnesses;
- The applicant or licensee should present his/her case in the manner outlined above;
- Rebuttal by OCCL counsel is permitted; and
- The parties, on request, have the opportunity for oral argument at the close of the presentation of evidence. In addition, they have the right, on request, to submit for the record in writing proposed findings, conclusions, and statements of reasons.

15.8 Rules of Evidence

The standard of proof to be applied is the preponderance of evidence. The burden of proof in all appeals is upon OCCL. To avoid hearsay, when the enforcement is related to a criminal charge or child abuse, the specialist requests a CHU Specialist, Kriston Lowry-Sims, and/or a DFS worker to testify at the hearing.

The technical rules of evidence do not apply at the hearing. As a rule, the hearing officer may receive any evidence so long as it is of the kind that usually affects fair-minded people in the conduct of their dealings in more important affairs. He or she should strike on objection or on his/her motion evidence that is irrelevant, immaterial, insubstantial, privileged, or repetitive proofs. If a question or answer at the hearing is irrelevant, improper, or excludable for other reasons, the hearing officer should strike it without waiting for an objection. The key to accepting evidence at the hearing is whether it is the most reliable and has substantial bearing on the asserted facts. The hearing officer should look to whether the evidence in question is trustworthy and how strongly the evidence tends to support the existence of relevant facts.

A party to the hearing may conduct examinations or cross-examinations without rigid adherence to formal rules of evidence, provided the examination or cross-examination does not become abusive or constitute harassment of the witness, and the examination can be shown to be necessary to result in full and fair disclosure of the facts bearing upon matters in issue. The hearing officer may at his/her own discretion, examine all or any of the witnesses at the hearing.

The right to refuse to provide self-incriminatory evidence is applicable, but is waived unless asserted.

15.9 Recording the Proceedings of the Hearing

OCCL records all testimony in the administrative hearing by mechanical means. All documents or other evidence received are also part of the record and must be maintained. In addition, a record of all evidence offered but excluded must be maintained. As a matter of practice, it would be appropriate for the hearing officer to conditionally receive evidence and thereafter, if it is excludable, to avoid considering it in making the decision. The hearing officer should mark all documents and evidence submitted as exhibits. Copies of the mechanical recording of the hearing and documentary evidence will be made available by OCCL at the requesting party's expense. The complete record including the tape records will be retained in central enforcement action's files. The decision of the hearing officer and Department cabinet secretary will also be placed in the facility record. The findings of the hearing officer and Department cabinet secretary are public documents.

Procedure for Hearing Recorder:

1. When a hearing is scheduled: If support staff have not been involved in the scheduling of the hearing, the supervisor will inform the designated support staff at least three business days in advance of the hearing (if known) so that support staff can confirm that the recorder is fully charged and available for the supervisor's use

at the hearing. If a support staff was involved in the scheduling of the hearing, she will confirm that the recorder is fully charged and available for the hearing without further direction from a supervisor. The supervisor will get the recorder from the storage location before the hearing.

2. After the recorder is used, the supervisor will give the recorder to the designated support staff to download the material and recharge the device. Within three business days, the recorder shall be placed in the agreed-upon location fully charged and ready for use. If the hearing is continued or another hearing is scheduled within this three-day period, the recording shall be downloaded within one business day so that the recorder can be recharged and available for the next use.

Wilmington: Location is the supply room near Art's desk.

Dover: Location is the locked closet next-door (YRS office space with the rest of the electronic equipment and other office files, etc.). The key to the room is kept in OCCL's file room. All OCCL staff members have access to the keys.

15.10 Recommendations of the Hearing Officer

The hearing officer recommends findings of fact and a decision upon the evidence presented by the record in accordance with the basic law under which the Department is operating, 31 Delaware Code, Sections 341-345, as well as regulations adopted pursuant to the law. The hearing officer also recommends an appropriate order concerning the applicant or facility. The recommended order of the hearing officer becomes part of the record of the case. The recommended order must be served upon the parties within 10 business days after the date of the hearing.

15.11 Final Case Decision and Order of the Cabinet Secretary

The cabinet secretary, after review of the findings of fact and recommended order of the hearing officer, makes a final case decision and issues an order in the case within 10 business days of the receipt of the hearing officer's recommended order. The cabinet secretary's final case decision and order must be served upon the parties by certified mail/return receipt requested and regular mail. The cabinet secretary issues a "Final Case Decision – License Revocation" or "Final Case Decision – License Application Denial." The order of the cabinet secretary will take effect 30 days after receipt of the final case decision (except in cases of license application denial where the facility was not licensed). The specialist makes an on-site inspection of the facility at the conclusion of the 30-day period to verify the facility has ceased operation. Within five business days of closure, the specialist notifies POC, the Child Adult Care Food Program, DE First currently Tina Shockley, and DE Stars currently Kristy Sheffler, of the closure. The specialist copies this email notification into a resource note in FACTS.

The signed original final case decision remains in the custody of the Department as public record. Documentation of this action is made in the licensing and FACTS records.

Applicants or licensees, at their expense, may appeal hearing decisions of license revocations and license application denials to the Delaware Superior Court for a final review. Within 30 business days after the mailing of the decision notice, dissatisfied applicants or licensees may file a notice of appeal, at their expense to the Delaware Superior Court in the office of the Prothonotary in the county in which the child care facility is located or to be located, and serve a copy of said notice of appeal upon the Department. The final decision of the Secretary will remain in place during the appeal process unless otherwise ordered by the Court pursuant to § 10144 of Title 29.

16. Monitoring Visits

16.1 Introduction

A monitoring visit is the method for official observation of a licensed facility during the effective dates of the license to monitor continued compliance with the *DELACARE*.

16.2 Process

Visits may be announced (made with prior notice or by appointment) or unannounced (made without prior notice or appointment). The specialist may offer technical assistance during monitoring visits. The specialist must record the licensee's status on a compliance record, supply a copy of the record to the facility at the conclusion of a visit, and create a facility visit in FACTS to record the findings within five business days. The specialist completes the entire compliance review form leaving no blanks when conducting full compliance reviews. The specialist also lists the length of the visit by recording the time. For example, 9:00 AM-11:00 AM. The specialist assigns a corrective action date that is earlier in the month rather than the last day to allow time to process the license. For example, rather than 12/31/14, the date of correction would be 12/22/14.

Visits may be made outside regular Department business hours and days to a facility whose hours and days of operation extend beyond those of the Department.

During an enforcement visit, it is **not** necessary to determine compliance with **all** regulations, just those that led to the enforcement action. When non-compliance is noted on a monitoring visit, this is confirmed and noted on a compliance record and in FACTS. The licensee must be required to correct non-compliance that can be addressed immediately. The licensee must be provided with a copy of the compliance record and/or corrective action plan at the time of the visit. The licensee or designee must sign the compliance review. In situations in which no area of non-compliance was noted, the specialist will document in the licensing and FACTS record that a visit was made and non-compliance was not found.

16.3 Corrective Action Visits

Corrective action visits are used as a follow-up to establish that a licensee has completed the required corrective action (because of a complaint investigation or compliance review) or to monitor progress in attaining compliance during the terms of a provisional license. These visits may be planned. Typically, only those regulations cited for non-compliance are observed. However, compliance with other regulations may be observed and further non-compliance may be cited.

17. Technical Assistance

17.1 Introduction

Technical assistance is the provision of materials and information or the giving of professional or expert advice that will assist an applicant or licensee in complying with *DELACARE*. Printed materials and training programs for the various categories of facilities offered by state and private sources, as well as the sharing of general and specific information on a one-to-one basis are included in this definition. Like consultation, technical assistance provides voluntary information for assisting an individual or facility in reaching a decision or gaining knowledge. Specialists may offer "Staying in Compliance" training to each facility type to help them maintain or achieve compliance.

17.2 Essential Elements of Technical Assistance

- Technical assistance is based on professional experience or expert knowledge/information.
- The focus of technical assistance is the maintenance of *DELACARE*.
- Any offer of technical assistance may be declined. However, the applicant or licensee must comply with the

regulations and declined offers will be noted in FACTS and the licensing record.

- Technical assistance includes the offering of suggestions, referrals to other resources, or sharing ideas that may be helpful to enable the applicant or licensee to conform to *DELACARE*.
- If the specialist conducts “Staying in Compliance” training, she issues a “Certificate of Training” for each staff member who completed the training.

18. Complaints

18.1 Introduction

Supervisors must review complaints written by specialists within five business days. A complaint is an accusation that a licensed facility is non-compliant with the *DELACARE*. An accusation that involves children in care of a licensed facility being abused, neglected, or exploited is a specialized type of complaint that is referred to Institutional Abuse Unit for investigation. Any complaint may be written or oral and may be anonymous.

A complaint is valid when the licensee is alleged to be non-compliant with *DELACARE* or a statute. The reporter is advised that his/her name will be kept confidential. An anonymous complaint is registered from a source that chooses not to be identified. The information received from the anonymous complaint can be used as evidence. A complaint can be derived from informal conversation and third parties. This could include newspaper, TV, or radio accounts of various activities in facilities.

18.2 General Complaint Intake Procedures

OCCL must investigate a facility when a complaint is received. The specialist notifies the licensee when a complaint is being investigated and reports in writing the results of the investigation to the licensee. Licensee notification of the complaint is generally done at the time of the unannounced visit regarding the complaint. The FACTS system provides a standard procedure for receiving and recording complaints. Complaints may be received directly by OCCL or by DFS’s Child Abuse Report Line.

OCCL staff members follow these four steps when taking a complaint:

1. The specialist completes the “Intake Complaint” form when taking a complaint to ensure the correct information is gathered. This form can be discarded once the complaint is entered into FACTS.
2. To conduct an effective investigation, the specialist informs the reporter of the investigative process and gathers as much information from the reporter as possible. The specialist explains the need for the reporter to provide enough information to identify the facility in order for an investigation to be conducted. In addition, the specialist encourages the reporter to provide his/her contact information to allow for follow-up during the course of the investigation. The specialist explains to the reporter(s) that if they wish to remain anonymous, by law their name(s) will not be released. The specialist asks the reporter if he or she wants a copy of the results of the investigation. If so, the specialist will get the address or email of the reporter and add that information into the complaint detail.
3. The specialist explains OCCL’s responsibility regarding complaint investigations; that is, inform the reporter of OCCL’s role in determining whether 31 Delaware Code, Sections 341-345, or a *DELACARE Regulation* promulgated under the statute has been or is in danger of being violated. If the complaint is regarding non-licensing issues such as fees or contract issues, the specialist explains that OCCL does not handle these situations.
4. If appropriate, the specialist explains that an assessment will be made as to the need for making a referral to the Institutional Abuse Investigation Unit (IA) or another agency. In cases of abuse or neglect, the specialist advises the reporter to call the Child Abuse and Neglect Report Line. The specialist documents relevant information regarding the complaint and follows up with the Report Line within one business day to ensure the complaint was submitted to the Report Line. If the complaint was not reported, the specialist reports the complaint to the

Report Line.

5. As appropriate to the nature of the complaint and if requested by the reporter, the specialist discusses the possible consequences to the licensee that may result from a complaint being filed.

The FACTS system is used to record all complaints against a facility, as set forth in the following instructions:

1. Complete all of the items on the FACTS System Hotline Report Facility Complaint. The intake specialist enters the words, "See FACTS," in the System History section of the Hotline Report. The Hotline Report is forwarded electronically to the appropriate supervisor.
2. For a complaint with a single allegation, the specialist chooses the appropriate topic. If the complaint alleges multiple allegations, the specialist chooses other. If any allegation is found to be true, the complaint is substantiated. The specialist will address whether each allegation is substantiated or not.
3. The supervisor reviews the complaint within one business day following receipt of the complaint for acceptance or rejection.
4. A copy of the Hotline Report is to be kept in the confidential file of the licensing record for FCCHs along with all information and materials gathered in the course of investigating the complaint. The center and LFCCH Hotline Reports and notes are kept in the facility's folder in a shared filing cabinet.

18.3 Role of the Supervisor

The primary objective of the supervisor in the complaint handling process is to ensure the effective and timely handling of all complaints. To achieve this, the supervisor reviews hotline reports, screens them in if a *DELACARE Regulation* was violated, and assigns them to the appropriate Specialist. Supervisory contact is made to the specialist for complaints to:

- Alert the specialist of the complaint;
- Determine what regulation may have been violated;
- Determines if an onsite visit is required; and
- Discuss time frame for action based on the seriousness of the complaint.
- In circumstances where a supervisor has determined that allegations made by a reporter are not related to a regulation, the supervisor discusses it with the specialist. If need be, the specialist calls and discusses the complaint with the licensee and records the results of the discussion in a FACTS resource note at the conclusion of the discussion.

18.4 Initial Evaluation of Complaint Information

Preliminary screening of the complaint may result in one of the following actions:

- No further regulatory investigation needs to occur when the complaint received does not allege violations of 31 Delaware Code, Sections 341-345, *DELACARE*, or the terms of the license. OCCL staff may take the opportunity to provide the person contacting OCCL with education regarding OCCL's responsibilities and encourage the person to contact the facility directly about his/her concerns.
- Coordinating investigatory activities with other appropriate agencies;
- Referring the reporter to another agency, e.g. the complaint may involve issues with the CACFP or POC; or
- Referring to a Child Placing Agency when the complaint is regarding a foster or adoptive home approved by a Child Placing Agency. The Child Placing Agency is responsible for conducting the complaint investigation. OCCL has been granted permission by DFS to fax or provide copies of the Hotline Report form (with reporter-identifying information removed) directly to the Child Placing Agency. OCCL's role is to ensure the Child Placing Agency conducts an adequate investigation. IA will investigate abuse and neglect complaints in foster and adoptive homes as well as residential child care and day treatment programs.

18.5 Timetable for Referrals

The intake specialist takes the complaint and immediately refers the reporter to report suspected abuse or neglect of a child to the Report Line. The specialist contacts IA within one business day to ensure the complaint was reported to the Report Line. If the reporter failed to report the alleged incident, the specialist makes the report and provides the known information. Whenever possible, a joint investigation between OCCL and IA will be conducted.

Within one business day, the specialist contacts the Division of Public Health when the complaint involves serious environmental hazards.

Within one business day, the specialist contacts the fire marshal's office when the complaint involves fire safety.

Within five business days, the specialist contacts the POC administrator, Division of Social Services, whenever a complaint involves any allegations of fraud against POC.

Within five business days, the specialist contacts the CACFP administrator whenever a complaint involves any allegations of fraud against the CACFP.

18.6 Logging Complaints

The complaint log is maintained electronically by the FACTS system.

When a complaint is withdrawn by a reporter before an investigation begins, the specialist seeks the reason for this withdrawal. The specialist then alerts the supervisor in order to evaluate the information. Based upon this evaluation, a determination is made as to how this matter is to be officially resolved. However, if it appears the statute or a regulation has been or is in danger of being violated, a complaint investigation will be conducted.

18.7 Evaluating the Degree of Risk

Before contacting the facility, the specialist, with supervisory assistance as needed, evaluates the information for clarity and thoroughness and urgency in initiating the investigation. In addition, the information is evaluated in terms of harassment and tentative identification of the *Regulations* involved.

To determine the nature of the complaint and the urgency of the situation, OCCL staff must obtain as much clear and detailed information as possible. This is particularly essential when the reporter wishes to remain anonymous.

Guidelines for determining the nature and urgency of the complaint fall into three primary areas, arranged from highest to lowest risk.

- **Immediate** threat to health, safety, or well-being of children in care. For example, staff at a facility is alleged to be physically abusing a child, provider leaves children alone by leaving the home or property, or a child from a facility was found wandering on a nearby highway.
- **Potential** threat to the health, safety, or well-being of children in care. In this situation, the degree of threat does not appear to be as serious as in the immediate section above. For example, the provider went inside to change a diaper, leaving children unsupervised in the play yard.
- **Allegations Involving Possible Regulation Violations**, which do not have an immediate or potential threat to health, safety, or well-being of a child in care. For example, an unreported injury to a child in care occurred three months before the date of complaint.

18.8 Timelines and Procedures for Response

A. Immediate Threat

The specialist begins the investigation within one business day. This does not necessarily mean that an on-site investigation must be conducted within one business day, but that some other investigative activity, such as a collateral referral to the units having jurisdiction in the area, should be made (i.e. calls to fire marshal, police or IA, or appropriate placement/referral agency). In the event the complaint involves abuse or neglect, the investigative policies and procedures of the IA are used. All abuse cases (for centers, FCCH, and LFCCH) that are screened in by IA will be screened in by OCCL. Physical and emotional abuse will be screened in as improper discipline. Sexual abuse will be screened in as lack of supervision. The actions of OCCL must not jeopardize the investigation of the police or IA. If the police are involved in a complaint, their investigation takes precedent. The specialist should not disclose anything or question anyone from the facility without the agreement of the police department and IA.

To coordinate an investigation, specialists should send IA staff (Mike Zuka, Michelle Rogers) an email asking about the pending IA investigation including a date to respond by, if the specialist doesn't hear anything back, the specialist can email again and cc Shelley Yingling.

- a. If a complaint is physical or sexual abuse, IA will investigate and OCCL will screen it in and investigate OCCL regulation violations and the complaint will be pending until IA report is finalized. If parents want a copy of a complaint or IA report, they can talk to IA about the delay.
- b. If IA finds abuse, neglect, or improper discipline, OCCL will substantiate a complaint for improper discipline.

The assigned specialist makes collateral referrals. However, if the appropriate specialist is not immediately available, the supervisor makes the appropriate referrals.

The specialist immediately contacts the supervisor to develop a preliminary action plan. If the supervisor is not available, the specialist contacts OCCL's administrator to develop the plan.

Although some investigative activity must be initiated immediately, objective analysis and development of a preliminary action plan is still required. This reduces the possibility of an inappropriate OCCL response.

B. Potential Threat

The specialist begins the investigation within one-five business days. The more serious the risk, the sooner the investigation must begin. A collateral referral may be necessary.

The specialist contacts the supervisor within 24 hours to assist in the development of a preliminary action plan. Potential threat complaints allow time to contact the reporter with additional questions if needed.

The specialist makes the initial unannounced visit within five business days. Supervisory consent is required to make the visit announced or beyond the five-day period.

C. Allegations Involving Possible Regulation Violations

The specialist begins the investigation of possible regulation violations within 10 business days. The specialist conducts an initial onsite unannounced visit to gather information regarding the complaint. Exceptions to the unannounced visit can only be made with supervisory approval.

D. Response Time Chart

Non-compliance	Response Time: Immediate=I, Potential= P, Violation=V
Failure to Permit Authorized Staff	I or P
Improper Discipline	I or P
Improper Staff-to-Child Ratio	I or P
Lack of Supervision I	P or V
Lack of Supervision II	I
Med Errors	I or P
Participating in Fraud	V
Safe Sleep	I or P
Transporting Children in an Unsafe Manner	I or P
Under the Influence	I
Unqualified Staff Alone with Children	P or V
Unreported Household Member/Substitute I	P or V
Unreported Household Member/Substitute II	I or P
Unsafe Building/Environment	I or P
Violation of AOU	I or P

18.9 Harassment

An effort is made to evaluate the complaint for the possibility of harassment. A reporter may repeatedly contact OCCL staff about a facility or series of facilities with complaints that, when investigated, are found to be invalid. When this occurs, it may be helpful to discuss the previous complaints with the reporter and the results of the investigations and to explore at greater length the reasons the reporter is calling again. When the complaint is calling in by telephone, it may prove helpful to ask the reporter to come to the office for further discussion. When OCCL staff, including OCCL's administrator, determines that harassment is the probable motive, the reporter is notified that unless new information indicates a possible violation of the regulations, no complaint investigation will be conducted.

18.10 Planning the Investigation

Before direct contact with the licensee, the specialist, with supervisory assistance as necessary, develops an action plan for the investigation. At a minimum, the specialist uses the following procedures to develop an action plan:

- Reviews the complaint;
- Identifies the regulations involved;
- Reviews information from the facility record to identify:
 - a. The type of facility;
 - b. Date and findings of last compliance review; and
 - c. Prior complaints;
- Requests information and assistance from POC (to identify number of children claimed for payment each month), CACFP, Division of Family Services, police, or experts such as the fire marshal or environmental health inspectors, if appropriate;
- Before and after going out on a complaint visit, specialists should update the people mentioned in the complaint in the people screen.

- Determines if other calls or contacts may be needed before visiting the facility to verify information or to gain additional information;
- Plans for investigative techniques to be employed (i.e. identifies which records or data will need to be reviewed during the investigation); and
- Schedules time for an unannounced complaint investigation visit at the facility. **WHEN HAZARDOUS OR ABUSIVE CONDITIONS ARE ALLEGED, THE INVESTIGATION BEGINS WITHIN ONE BUSINESS DAY. DELAY BEYOND ONE BUSINESS DAYS OF THE DATE THE COMPLAINT IS RECEIVED REQUIRES SUPERVISOR'S APPROVAL AND DOCUMENTATION OF THE REASON FOR THE DELAY ON THE COMPLAINT REPORT.**

18.11 Investigation Procedure

A. Initiating Investigation

Complaint investigations are to be initiated promptly, but no later than the 10th business day after receipt of the complaint depending on its threat level. In most instances, initial contact with the facility is an unannounced visit. The specialist may contact the reporter before visiting the facility to request any additional information needed or to clarify details of the complaint.

The specialist should not automatically conduct a site visit if there is a corresponding police or IA investigation. Those investigations take priority and a specialist should never discuss with or question anyone involved without prior knowledge and approval by the police and IA, as this could jeopardize their investigations. The specialist offers assistance to other investigators. Whenever possible a joint investigation is to be done. The specialist is to address OCCL issues and the IA addresses the alleged abuse or neglect.

At the beginning of the investigative visit, the specialist advises the licensee or person in charge of the purpose of the visit and the general nature of the complaint as long as divulging this information will not jeopardize the complaint. The specialist introduces anyone accompanying him or her and explains his/her role in the investigation. Before concluding the investigation, the specialist provides an opportunity for the licensee to respond to the complaint and to the alleged *DELACARE* violations. This approach may serve to reduce anxiety experienced by licensee.

Observations, interviewing, and reviewing documentation are the key strategies used in Licensing investigations. Interviews should be conducted in private if possible. Two specialists should attend complaint visits when children are being interviewed. If the provider will not permit a specialist to interview a child during a complaint investigation, the specialist will substantiate the complaint and move toward an enforcement action. Interviews with children may be conducted by licensing specialists because OCCL falls under the DFS umbrella of permissions. A group of children may be asked general questions, such as "what do you usually have for lunch?" or "what happens when children misbehave?" Individual interviews with children that lead to any sort of sexual abuse disclosure should end immediately. The information should be reported to the police and Child Abuse and Neglect Report Line so that the child can be properly interviewed by the Child Advocacy Center. Observations should be made as unobtrusively as possible so as not to create undue alarm among children in care. An exit interview should always be conducted with OCCL's administrator.

All information obtained in the course of an investigation is recorded and identified as to the source, date, time, and method obtained. Clear and specific documentation is essential to quality investigations. For example, in over-capacity investigations, it is important to record the name and birth date of each child present.

In recording notes, the specialist gives special attention to physical evidence and records what type of evidence is secured, where it was found, who found it, and when it was found. A compliance record may be used to indicate any areas of non-compliance.

As the investigation proceeds, it may be necessary to contact persons not identified in the original plan. These contacts may include references; neighbors; fire, health, and law enforcement officials; staff of other agencies (city zoning, etc.); facility staff, present and past; parents; former reporters; and physicians, hospital staff, and other health agency staff.

The specialist always documents the complaint thoroughly because it may be used as evidence in an enforcement action.

B. Other Findings

During the complaint visit, the specialist must be alert to any other non-compliance and discusses these issues with the licensee, Administrator, or designated person. The specialist documents other areas of non-compliance observed during the course of a complaint investigation on a corrective action plan and includes them in the investigation, conclusion and non-compliance sections of the complaint investigation report. Non-compliance that can be corrected immediately must be required of the licensee.

The specialist makes an exit statement to the licensee at the end of the investigation visit. At a minimum, the specialist tells the licensee when to expect to hear the results of the investigation. The specialist completes a Part B Compliance form to leave at the facility during this investigation. This form is signed by the licensee or designated supervisory staff member and includes the following information: the date and time of the visit, a list of obvious non-compliance with *DELACARE*, and a statement that the investigation report will follow. The specialist may add additional non-compliance when creating the complaint investigation report if more non-compliance is discovered. The specialist informs the licensee or designated supervisory staff member that the complaint investigation report will serve as the method for conveying the official findings of the investigation pending the supervisor's approval. If further information is required, the specialist informs the licensee or designated supervisory staff member that he or she may be returning to discuss or further investigate the complaint.

18.12 Complaint Investigation Report

The complaint investigation report is an official public document, which details the findings of a completed complaint investigation and may include corrective action. Once the investigation is complete, the specialist has 10 business days to write the complaint investigation report. The more severe the complaint based on response times listed in section 18.8 the sooner the report is due. Substantiated and Unsubstantiated with Concern complaints are sent via certified mail/return receipt requested and by regular mail by support staff. Unsubstantiated and No Evidence to Substantiate complaints are only sent by regular mail.

The purpose of writing a complaint investigation is to document complaint investigation findings and to recommend corrective action if applicable. The complaint investigation report outline described below is used:

1. Facility Identification:

- Name of facility
- Address of facility
- Name of licensee
- Name of facility Administrator
- License number

2. Complaint Detail:

This section contains a brief summary of the date of the complaint, allegations, and source of the complaint (protecting his/her identity). When the source of the complaint is anonymous, it is to be indicated as such.

The format used for this is as follows: “On June 14, 2014, the Office of Child Care Licensing received a complaint regarding XYZ Child Care Center, located at 55 Sunshine Way, Wilmington, DE 19805. The reporter stated...”

The specialist pastes the complaint from the complaint report into this section and makes necessary changes. The names of the administrator, curriculum coordinator, and owner/licensee can be used. All others should be coded, i.e. Staff #1, Child #1, Witness #1, Parent #1, etc. Do not use information that identifies the reporter.

When OCCL receives a complaint from another agency (Stars, POC, CACFP), OCCL does not identify the agency. For example, “On June 18, 2014, the Office of Child Care Licensing received a complaint regarding Little Bears, located at 123 Skyway, Bear, DE 19701. The reporter provided attendance sheets showing 17 children were claimed for payment for lunch on May 13, 2014.”

If applicable, include the date IA and OCCL received the complaint. For example: Complaint detail: *“On March 16, 2017, a complaint regarding Fresh Start Child Care Academy, located at 1410 Lancaster Ave., Wilmington, DE 19805 was called into the report line and not accepted for investigation by the Institutional Abuse Unit. It was sent to the Office of Child Care Licensing on March 17, 2017, for investigation.”*

3. Investigation Detail:

This section outlines the observations of the specialist, statements of individuals interviewed, and collateral contacts including personnel of other agencies.

The format used for this is as follows: “On June 16, 2014, Licensing Specialist Jackie Smith made an unannounced visit to the facility and spoke with Administrator Wilma Jones about the allegations in the complaint.”

4. Conclusion Detail:

This section identifies the facts and evidence related to the specific *DELACARE Regulations* addressed during the investigation. This includes both the findings related to the complaint alleged and any other non-compliance found during the investigation. This section should clearly state the outcome of the investigation. The findings may be substantiated, no evidence to substantiate, unsubstantiated with concern, or unsubstantiated. An allegation that cannot be proven true or false should be assigned as “No Evidence to Substantiate.” Unsubstantiated is rarely used and should only be used with supervisory approval. If the licensee or designated supervisory staff member does not permit a specialist to interview a child during a complaint investigation, the specialist substantiates the complaint.

The format used for this is as follows: “The Office of Child Care Licensing received a complaint on (date) regarding (regulation violation, example children were left unattended of the playground for 4 hours). An investigation was conducted on (date). The complaint was substantiated for lack of supervision because children were left unattended for three hours on the playground. Other concerns noted were....” The third sentence can also begin with the following phrases: This complaint is substantiated for lack of supervision due to...” or “There is no evidence to substantiate this complaint...” or “Although this complaint cannot be substantiated for over-capacity, the complaint is unsubstantiated with concern because other non-compliance was noted....” or “The complaint is unsubstantiated with concern, the concern being...”

Specialists should include the date IA and OCCL received the complaint, if applicable. For example, “On March 16, 2017, a complaint was called into the report line and not accepted for investigation by the Institutional Abuse Unit. The Office of Child Care Licensing received the complaint on March 17, 2017, regarding a child being restrained in a high chair and having unexplained injuries.”

5. Recommendations:

The specialist states any recommendations or suggestions that are not requirements to help the licensee improve services or prevent future occurrences. “While it is not required, this specialist recommends the center purchase walkie-talkies so staff members do not have to yell down the hall for coverage when using the bathroom.” If the specialist does not have any recommendations because no violations were found, the specialist writes, “The facility is to continue to maintain compliance with *DELACARE Regulations*.” If the facility is likely to go on enforcement due to the severity or repeated nature of the complaint, the specialist writes, “This licensing specialist recommends a discussion be held with OCCL’s administrator to consider the possibility of an enforcement action.”

6. Statement of Non-Compliance

This section is used to identify those specific regulations found to non-compliant during the investigation. A corrective action plan must be incorporated into the report with dates being given to correct non-compliance. If the complaint was substantiated, non-compliance is always cited in this section.

State what the facility is required to do to come into compliance, i.e. “Place an approved safety gate at the bottom of the stairs.”

18.13 Coding of Confidential or Protected Names

It is necessary to protect from disclosure the names of the reporter(s), witnesses, parents, victims, perpetrators, staff members, and children in care unless so ordered by the appropriate legal authority or by appropriate written consent. Therefore, the names of the reporter(s), witnesses, staff members, parents, and children in care will be coded in the complaint investigation report. A code sheet is used to reference the assigned code with the confidential or protected name. The code sheet is solely for the use of OCCL and is only to be released by order of the appropriate legal authority. A code sheet is prepared in the FACTS system and a copy is maintained in the confidential complaint file. Specialists use the following coding system: Staff #1, Parent #1, Witness #1, Child #1, and Complainant or Reporter. The administrator, curriculum coordinator, licensee, and facility director should not be coded.

18.14 Time Frame for Completion of Report

Complaint investigations must be investigated within the time frames for response as listed in Section 18.8. Complaint reports must be written no later than 10 business days after the conclusion of the investigation. After the supervisor reviews the complaint report, the specialist must make the necessary corrections and resubmit it for supervisory approval within five business days.

18.15 Review and Distribution of the Report

All final complaint investigation reports are to be reviewed and approved by the supervisor. If a complaint is returned to a specialist for further revision or clarification, the specialist has no more than five business days to make the necessary revisions and return it to the supervisor.

A complaint investigation report that recommends a discussion be held with OCCL’s administrator to consider the possibility of an enforcement action is not to be considered completed and is not to be transmitted to the applicant or licensee or the public, even if requested, until the report and recommendation have been officially reviewed and approved by the supervisor. Once approved, the report is not to be disclosed to the public until at least the fifth business day after the date when the report was received by the licensee. Any written comments regarding the report that are submitted by the licensee are to become a part of the licensing record.

After the report has been approved by the supervisor, the specialist finalizes the report in the FACTS system to indicate results and closure of the investigation. The specialist gives the complaint report, investigation notes, and coded complaint to support staff to mail to the licensee. Substantiated and unsubstantiated with concern complaints will be sent certified without a green card. No evidence to substantiate and unsubstantiated complaints will not be sent certified. In cases when the owner is not on site, specialists are to put a note on the complaint investigation report that includes the applicant's name and address if the applicant will not receive the mailed complaint. Support staff makes a copy of the complaint and sends it via regular mail to the applicant and certified mail without a green card to the facility when the complaint is substantiated or unsubstantiated with concern. The coding sheet is **not** to be sent to the licensee.

For complaints reported by Stars, support staff will scan and email complaint investigations to the designated Stars contact currently (Alvita Kelly). Specialists will alert support staff to send it to Stars by placing a sticky note on the approved complaint report.

When a reporter wants a copy of the complaint, specialists are to put a note on a complaint report that includes the reporter's email address or address if the reporter wants a mailed copy.

Five business days after the report was mailed to the facility, the specialist sends a copy or emails a copy of the report to the reporter, and other individuals, agencies, etc. having made written or verbal request for the report. The coding sheet is **not** to be sent.

The support staff files a copy of the report **without** the coding sheet in the licensing record and files the report, notes, **and** the coding sheet in the confidential file or complaint filing cabinet, depending on the facility type.

18.16 Requests for Information during an Investigation

Information may be shared with other units or agencies that have a professional or legal interest in the facility about which a complaint has been filed.

Field notes, preliminary complaint investigation reports, and any other pertinent written or verbal information may be cooperatively shared with Department staff as appropriate. When such material is shared, it must be emphasized that the report is preliminary and confidential. Written or verbal information concerning field notes, preliminary complaint investigation reports and any other pertinent information is not to be shared with persons or agencies external to the Department unless the conditions exist as described under Initial Evaluation of Complaint Information (see Section 18.4).

18.17 Requests for Information after Completion of Investigation

Complaints against a licensee frequently generate considerable public interest. The news media, in turn, then seeks to convey these events back to the public. To protect the integrity of the investigation, the rights of the licensee and children receiving care from the licensee, no findings are released before completion, approval, and dissemination of the written complaint investigation report to the licensee.

The specialist notifies the reporter of the determination of the investigation, if requested. This notification may be oral or in writing. If the notification is oral, the specialist documents the conversation in the FACTS system, including the date of the contact and the name of the person to whom the information was provided.

18.18 Requests for Information from the News Media

The specialist conducting the investigation may not discuss the findings to the news media. Contact with the news media and others external to the Department are to be handled by the designated Department spokesperson.

18.19 Requests for Information from the Public

OCCL must release, upon written or verbal request, copies of the official complaint investigation report. All requests must be directed to the supervisor of the respective unit.

18.20 Self-Reported Events

- Self-reported complaints will forever more be known as self-reported events. Unless there is sufficient non-biased evidence provided that can be used to prove the information reported is true, a visit must be conducted for serious non-compliance violations. The supervisor must approve skipping a visit. If a visit is not conducted, the specialist will note, “a visit was not conducted” in the notes section of the facility visit. We will cite non-compliance from self-reported events.
- When self-reported events are called into the report line and screened out, OCCL will screen them out too.
- When self-reported events are called into the report line and screened in, OCCL will also accept them for investigation.
- Specialists send a coded copy of the facility visit to the facility to provide documentation of a self-reported event.

18.21 Child Placing Agency Complaint Procedures

When a complaint is made via the Child Abuse and Neglect Report Line alleging abuse or neglect in a CPA foster home, the complaint is referred to IA for investigation. Upon receipt of the complaint, IA notifies OCCL. Per November 27, 2012, DFS policy, IA Allegation – Removal Discretion, the CPA is permitted to use discretion after discussing the situation with the DFS staff and supervisor whether to remove all children from the foster home. OCCL waits for the completed IA investigation. Once the complaint investigation is completed, the assigned specialist creates a corrective action plan if needed or creates a Standards Investigation if a *DELACARE* violation involving the CPA Administration was reported.

When a complaint is made to the Child Abuse and Neglect Report Line that does not allege abuse, the complaint is rejected and forwarded to a licensing supervisor for review. If the complaint does not allege a *DELACARE* violation, the supervisor screens it out.

If the complaint alleges a *DELACARE* violation by a CPA, it is accepted by the supervisor as a “complaint” and assigned to a specialist. In cases where the complaint is against the agency, such as a problem concerning administration or policy, the specialist investigates the complaint within 10 business days of its receipt. The specialist completes the complaint in FACTS and submits the investigation to the supervisor for approval within 10 days of the completion of the investigation. Once approved, support staff sends the complaint report investigation to the CPA via certified mail and a copy is placed in the licensing record.

If the complaint alleges a *DELACARE* violation against a foster home, the specialist first checks whether the foster parent is a dual service provider. If so, the specialist notifies the licensee’s specialist in addition to faxing a copy of the Report Line complaint to the CPA with the reporter’s name and other confidential information crossed out. The CPA conducts the investigation and forwards the report to the specialist within 30 days. The report is to be completed in a format listed in *DELACARE*. The specialist reviews the report findings and determines if the report is complete and/or if corrective action is necessary. The specialist acknowledges receipt of the report via email or mail to the agency, and informs the agency if the report is complete and/or if corrective action is necessary. A resource note is entered into FACTS with the results of the CPA investigation. The specialist places the complaint completed by the CPA in a separate file rather than the licensing record.

19. Allegations of Unlicensed Care

19.1 Introduction

An allegation of unlicensed care is an accusation that a facility subject to licensure by OCCL, is operating without a license. Allegations may be either written or oral and may be anonymous.

A person who inquires about licensure and provides information to indicate that he or she is subject to licensure is considered a self-reported allegation rather than an inquiry.

Determining an allegation to be valid is the first step in the suppression of an illegal operation.

OCCL must investigate reported unlicensed child care facilities and require individuals providing unlicensed care to cease operation upon notice from OCCL.

19.2 General Intake Procedures

The intake specialist uses the following intake procedures for handling an allegation of unlicensed care:

- Advises the source that it may not be possible to withhold his or her name if the allegation leads to legal action. This allows the source to make an anonymous allegation if he or she chooses.
- Gathers as much information as possible: asks the source to give the location of the facility, the circumstances under which he or she became aware of this facility, the number of children in care, the dates care was observed, the names and telephone numbers of other people who know of the facility, and any other evidence that the facility is in operation and is subject to licensure.
- If clear identification (at least location) of the facility cannot be made from the information received, discusses course of action to be taken with the supervisor. If the allegation relates to a facility that is subject to licensure by another agency or department, refer the source to the appropriate agency or department.
- Informs the source that he or she can be notified of the results of the allegation investigation. At the discretion of the specialist, anonymous sources may be advised to call the specialist later to learn the results of the allegation investigation.
- Reviews FACTS files to determine whether the alleged operator is known to OCCL. If the alleged facility is licensed, contact the source orally or in writing, and consider the allegation closed. If the alleged operator is unknown, lists in the name field "Unknown" followed by the address for identification purposes. For example, Unknown 133 Main St, Newark.
- If the alleged operator is not licensed, enters the alleged operator in the FACTS system under Hotline Complaint Allegation of Unlicensed Care. Also, enters the alleged operator in FACTS in the resource screen as a new resource, adding the address and any other pertinent information before sending it to the supervisor.

19.3 Evaluation of the Allegation

An evaluation of the information received is necessary to determine the next action. Consultation with a supervisor should occur. Allegations of unlicensed care must be responded to within 10 business days of notification unless the allegation includes evidence that the situation is dangerous to the health and safety of children.

The following circumstances should be used in determining the course of action:

- If the allegation includes an accusation or evidence that children in care are being abused, neglected, or exploited, the specialist notifies the Child Abuse Report Line and/or the appropriate police jurisdiction immediately.

- If an allegation includes an alleged crime or is potentially dangerous due to activities that were reported about the home or occupants, the specialist contacts the appropriate law enforcement agency to conduct an investigation. The specialist sends a “Notice of An Allegation of Unlicensed Care” letter and documents the police notification and notice in FACTS. The specialist is not required to conduct a visit.
- If the allegation includes evidence that the situation will be dangerous to the health and safety of children, but is not dangerous for a specialist, an unannounced visit must be made within two business days.

Situations endangering the health and safety of the children must include but not be limited to:

- Children left unattended or left with a minor;
- Clear evidence of unsanitary conditions;
- Fire safety/fire hazards;
- Unfenced or accessible pools or other bodies of water;
- Hazardous physical plant;
- Indication that the site would be over-capacity if it were licensed; and
- Improper discipline.

19.4 Procedures for Allegations of Unlicensed Care

The following procedures are used when handling unlicensed care:

- In all cases, two specialists are to conduct the visit.
- The specialists make an unannounced visit within 10 business days unless otherwise stated in section 19.3.
- If it is determined the individual is providing care that could be considered a FCCH, the specialist informs the individual that he or she must attend the next scheduled information session and complete the licensure process within 90 days. The specialist brings two copies of the “Notice of An Allegation of Unlicensed Care” and two copies of a “Cease Operation of Unlicensed FCCH” issued by OCCL’s administrator. The specialist explains to the individual that he or she must immediately close the illegal child care or further legal action will be pursued by OCCL. If the specialist determines unlicensed care is being provided due to observations and/or statements made by the resident, the specialist leaves a copy of the “Cease Operation” letter. The specialist requests for the individual to sign the other copy and keeps this signed copy of the “Cease Operation” letter with the complaint. The letter explains the reason for the “Cease Order”, that the individual must attend an information session and orientation to become licensed, and that if more complaints are received they will be investigated and the findings will be considered in determining the suitability for licensure. If the individual states he or she will be ceasing operation permanently, the specialist confirms this in writing to the individual in the complaint report.
- If the specialist is unable to make contact with the alleged provider or resident, the specialist leaves a hand-delivered “Notice of An Allegation of Unlicensed Care” and waits the required 10 business days for a response. The specialist also keeps a copy of the “Notice of An Allegation of Unlicensed Care” to be maintained with the complaint. If the specialist does not receive a response, a “Second Notice of An Allegation of Unlicensed Care” is sent via certified mail return receipt requested and a copy is maintained with the complaint. If no response is received, the specialist makes one final visit to the home. If the specialist does not observe signs that care is being provided or is unable to contact the alleged provider, the specialist completes the investigation and reports the findings as “No Evidence to Substantiate.”
- If the alleged provider or resident contacts OCCL and reports he or she is conducting unlicensed care, the specialist informs the alleged provider to cease operation and sends a “Cease Operation of Unlicensed Care” and visits the site within five business days to ensure the care has ceased. If care is still occurring, the specialist sends a “Notice of Operation in Violation of the Law” that explains this matter has been referred to the deputy attorney general because they failed to comply. The specialist then completes the investigation and sends the complaint report to the deputy attorney general and the unlicensed provider. Copies of all signed letters sent to the alleged provider or resident are to be maintained with the complaint.

- If the home does not appear to be used for care and the alleged operator states he or she is not doing care, the specialist includes that information in the complaint report. Once the supervisor approves this report, the support staff sends this to the alleged operator. The support staff copies the report and places it along with the notes into the filing cabinet designated for allegations of unlicensed care. The matter is considered closed.
- If the person claims to be providing relative care, the specialist verifies this with POC. Documentation may be required to verify that the children are relatives or that there is no compensation for the care.
- For an unlicensed care complaint on a suspended provider, specialists must list the non-compliance in the conclusion section.

19.5 Facilities Not Subject to Licensure

If the facility is not subject to licensure, the specialist confirms this in writing to the alleged operator. The letter must include a reference to the appropriate statute or regulation and a reminder that there is a penalty for operating a facility without a license.

19.6 Cease Operation Orders

When there is evidence of unlicensed care, a specialist creates a “Cease Operation of Unlicensed FCC Order” or a “Cease Operation of Unlicensed LFCC or Center Order.” These orders are signed by OCCL’s administrator. They serve the same purpose for unlicensed operations as “Suspension Orders” do for licensed facilities.

19.7 Facilities Subject to Licensure - Other than Family Child Care Homes

If the facility is subject to licensure and appears to be a threat to the health or safety of the children in care, regardless of whether the operator has been informed previously of the circumstances that require licensure by OCCL, the specialist immediately notifies the deputy attorney general, with the prior approval of OCCL’s administrator, for injunctive action. The facility must be notified that the operation must cease immediately.

If the facility is subject to licensure and the operator has been issued a “Cease Operation Order” and continues to operate, the specialist contacts OCCL’s administrator. OCCL’s administrator informs the division director of the situation and a “Notice of Operation in Violation of the Law” must be issued to the facility with referral to the deputy attorney general for consideration of injunctive action and/or criminal prosecution.

If the facility is subject to licensure, the operator has **not** been informed previously of *DELACARE*, and the children in care are **not** at risk, the specialist notifies the operator in writing that the facility is subject to licensure by OCCL and that the operation of the facility is illegal and must cease immediately. The operator is instructed to contact OCCL for licensure procedures upon cessation of operation. The specialist sends the letter by certified mail/return receipt requested or delivers it to the operator in person. The specialist then records the personal delivery of the letter in the FACTS system. An illegal operator of a facility cannot be considered an applicant while actively running the operation.

19.8 Ceasing Operation

If the facility ceases operation, the specialist confirms this in writing to the alleged operator and includes the following information:

- A reference to the appropriate statutory requirement; and
- A reminder that there is a penalty for operating such a facility without a license.

19.9 Follow-Up

Follow-up on a valid allegation may be required depending upon the resolution of the allegation and the recommendations of the deputy attorney general. The specialist conducts a follow-up visit within five business days of the mailing of the "Cease Operation" letter to ensure the facility closed.

If the facility continues to operate in violation of *DELACARE*, the specialist contacts OCCL's administrator for further instruction.

20. Closures

20.1 Introduction

A facility may be considered **closed** if it ceases operation or alters its operation so that licensure is not required, fails to submit a renewal application, fails to meet the terms of the corrective action plan, or no longer operates at the address at which the license was issued.

For a change in licensee, ownership, or corporation (see section 9.13-9.14).

The procedures outlined below apply to all licensed facilities which:

- Cease operation for any reason, including ceasing operation at one location in order to begin operation at another location;
- Alter operation so that a license is not required;
- Change ownership;
- Withdraw a renewal application after the most recent license has expired;
- Do not file or plan to file a renewal application and the most recent license has expired; or
- Do not plan or fail to meet the terms of the corrective action plan.

These procedures do not apply to inquiries, allegations, withdrawn new applications, denials, or revocations.

20.2 Closure Procedures

Specialists use the following procedures to close a licensed facility:

1. Determine that the facility:
 - Has ceased or altered operation so that licensure is no longer required,
 - Failed to submit a renewal application,
 - Failed to meet the terms of the corrective action plan, or
 - Is no longer operating at the licensed address because of one of the following:
 - a) The licensee called OCCL and stated the facility is closed or altered operations, that the facility will not be submitting a renewal application, or that the facility will be unable to abide by the terms of the corrective action plan;
 - b) The licensee submitted a written statement that the facility has closed or altered operation, that the facility will not be submitting a renewal application, or that the facility will be unable to abide by the terms of the corrective action plan; or
 - c) The specialist observes the site of the facility and is aware the facility has closed or altered operation.
2. Document in FACTS how the determination of ceasing or altering operation was made; include a summary of the telephone conversations, observations made at the site of the facility, or a reference to a written closure statement received from the licensee. Print this information for the licensing record.

3. Send the licensee a “Notice of License Termination,” notifying the licensee that the facility is no longer authorized to operate. Within 10 business days, specialists must write the letter and include the following information:

- Statement of how the determination was made that the facility has closed or altered operation so that licensure is no longer required;
- Request that the license be returned to the specialist if the facility holds a valid license which will not expire immediately;
- Statement that the facility is no longer authorized to operate;
- Reference to the appropriate statutory requirement for licensure and a reminder that there is a penalty for operating such a facility without a license; and
- Statement that the licensee has the right to reapply for a license.

Exception: When a facility ceases operation at one location in order to begin operation at another location, the specialist notifies the licensee that operation at the previous location is no longer authorized. If there is a change of ownership, a “Notice of License Termination” is sent to the former licensee when the facility is sold to a new licensee or when the license is issued to the new licensee.

5. Inactivate the people assigned to this facility in FACTS.

5. Conduct a facility visit when the specialist has reason to question whether the facility has closed or altered operation. Document the observations made during that visit in FACTS. Print this information for the licensing record. If the specialists observes things that indicate that the facility has not closed or altered operation, the case must remain active and be discussed with the supervisor to determine the appropriate action to be taken.

6. If a facility has not ceased operation, but has changed ownership without applying for licensure, has withdrawn a license application, or has not filed a license application, encourage the operator to apply for licensure. If unsuccessful, discuss the case with the supervisor to determine the most appropriate course of action.

8. If a specialist has conducted three unannounced visits to a FCCH during the hours of operation and has not been able to gain entrance into the home, a “Notice of Pending License Termination: No Access to Family Child Care Home” is sent certified mail/return receipt requested to the licensee. The licensee is instructed to contact the specialist within 10 business days or the license will be closed. If the licensee fails to respond within 10 business days after the date of receipt, the license is closed in FACTS. The specialist sends a “Notice of License Termination” as confirmation of this closure. The specialist makes a copy of this notice for the licensing record and places the record in the area designated for closed files.

9. When a specialist determines that a licensee’s phone number is no longer valid a “Notice of Pending License Termination: No Phone in Family Child Care Home” is sent certified mail/return receipt requested to the licensee. The licensee is instructed to contact the specialist within 10 business days or the license will be closed. If the licensee fails to respond within the 10 business days after the date of receipt, the license is closed in FACTS. The specialist sends a “Notice of License Termination” as confirmation of this closure. The specialist makes a copy of this notice for the licensing record. The specialist removes unnecessary information from the confidential file and places the record in the area designated for closed files within five business days. The support staff prepares the file for archiving.

10. Notify POC, CACFP, the fire marshal, and Delaware Stars of the facility’s closure.

21. Release of License Record Information

21.1 File Review

When a person requests to review a file, OCCL uses the following procedures:

1. Opportunities for public review of licensing records must be made on a regular basis. The public is expected to schedule a time for the review and specify which records they wish to review. A routine process for record review will be established in each of OCCL's locations. It may be important to share with the public that files available for review are active, business records of OCCL and are therefore not always in the building or prepared for public review.
2. If the licensing record information is in active use or in storage, support staff obtains these files for the reviewer to be viewed at a prearranged time.
3. No public citizen shall have access to the entire licensing record. Licensing record materials not available for review will be kept in a separate file folder identified as "Confidential." The confidential folder is kept in the licensing record except during a public review of the file. Investigative material used to determine compliance or gathered during an investigation is not to be released for public inspection.
4. OCCL staff must only copy or allow public inspection of the following documents:
 - A. Applications, including all paperwork associated with the application (social security numbers are not to be released when making copies) If there is a pending application, it is part of the file review;
 - B. Licenses;
 - C. Compliance review reports and corrective action reports;
 - D. Fire, building, and zoning reports;
 - E. Complaint investigation reports (without the code sheets);
 - F. Enforcement actions;
 - G. Appeal hearing records;
 - H. Agreement of understanding;
 - I. Any letters to and from OCCL; and
 - J. Board of Directors.

A fee for copies is charged, according to the current cost for copying.

5. An OCCL staff person remains with the reviewer when license record information is visually inspected to ensure no documents are removed from the file and to answer any questions.
6. The reviewer signs the "File Review " form located in each record reviewed; an OCCL staff person initials after the reviewer signs.

21.2 Freedom of Information Act (FOIA)

Pursuant to 29 **Del.C.** Chapter 100, Subchapter 1003, "Freedom of Information Act" (FOIA) the following procedure is to be used for the release of information:

- If any FOIA requests are of a new type or the specialist is unsure of what can be released, the specialist immediately refers to OCCL's administrator for further instruction. OCCL's administrator consults with the Attorney General's office for advice on responding to the request.
- Un-redacted paperwork goes to the Community Relations Officer Dawn Thompson.

21.3 Requests for Zip Code or Alphabetical List

The support staff person responsible for ordering handles all written requests for lists of licensed facilities. The support staff provides an email containing the names, addresses, and phone numbers of all the FCCHs, LCCHs, and centers. Only non-profit service or voluntary agencies are to receive the data at no charge. Non-profit agencies principally selling

merchandise or other goods are to be charged. All checks are to be made payable to the State of Delaware, Division of Family Services. Requesters are to be informed that a payment of \$28.00 is required before any electronic lists can be delivered. Mailing labels are not available from OCCL.

22. Promulgation of Regulations

22.1 Procedures for Promulgation of DELACARE Regulations

The resource and development administrator uses the following steps in the development and promulgation of *DELACARE*:

1. Research: conducts a literature review, reviews Delaware's experience with existing regulations, conducts review of licensing agency's administrative policies, conducts review of child care regulations of other states, conducts review of federal standards/professional accreditation standards, and determines financial impact of regulation changes on ECE professionals. The period for research is usually six to 12 months.
2. Staff/Community Participation: forms and conducts focus groups of current licensees and another of current licensing specialists (three months), prepares first draft (three months). Organizes task force of providers and stakeholders and conducts task force meetings to review completed draft (12 months - 18 months). The period for Staff/Community Participation is usually 18 months to 24 months.
3. General ECE Community/Public Input: disseminates revised draft of regulations to licensees for review and comment, usually by posting on OCCL's website and/or email distribution. Publishes proposed regulations in the Register of Regulations, arranges dates/locations for public meetings, conducts public meetings to discuss changes and receive comments on proposed regulations. Adheres to the policies of the Register of Regulations that currently allow for public comment for a minimum of 30 days after the proposal is published by the Register of Regulations. Reviews validity of public comments, aids agency in determining whether regulations draft should be adopted, amended, or repealed, and makes changes as needed to proposed regulations draft (submitting to the Register of Regulations again if changes are substantive). The period for general ECE Community/Public Input is generally three to six months.
4. Final Draft and Adoption of Regulations: prepares final draft and has DSYCF officially adopt and promulgate regulations. The period for final draft and adoption of regulations is generally three to six months.
5. New Regulations Implementation: sets effective date, begins implementation phase for new regulations, plans and conducts trainings on regulation changes. The timeframe for new regulations implementation is generally three to six months or longer depending on specific regulation changes or additions.

23. Policy Memorandum and Technical Assistance Bulletins

23.1 Introduction

A policy memorandum provides interpretation or clarification of a *DELACARE Regulation* or procedure. A policy memorandum does not alter the purpose or intent of a regulation or procedure.

A technical assistance bulletin is a policy memorandum distributed to the provider community to provide clarity to a specific regulation.

23.2 Procedures for Issuing Policy Memorandums or Technical Assistance Bulletins

The following procedure is used for issuing a policy memorandum:

1. When OCCL staff members determine a *DELACARE Regulation* or procedure requires interpretation or clarification, an OCCL staff person prepares a draft of the proposed policy memorandum.
2. The specialists, supervisors, and OCCL administrator review the draft policy memorandum.
3. Based on comments received, the staff person prepares a final policy memorandum for approval by OCCL's administrator.
4. Upon written approval of OCCL's administrator, the policy memorandum is dated, numbered, and incorporated in the *DELACARE Procedures Manual*.
5. If applicable, the policy memorandum is distributed to the provider community with an effective date. As a technical assistance bulletin, it is dated and numbered and distributed via email where applicable and postal mail (when no valid email address exists.)